

# TRANSCRIPT OF RECORD

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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1919

No. 224

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COLEMAN J. WARD ET AL., PETITIONERS,

VS.  
THE BOARD OF COUNTY COMMISSIONERS OF LOVE  
COUNTY, OKLAHOMA.

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IN WRIT OF HABEAS CORPUS TO THE SUPREME COURT OF THE UNITED STATES  
OF OKLAHOMA.

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PETITION FOR HABEAS CORPUS FILED OCTOBER 14, 1919.  
WRIT GRANTED AND RETURN FILED NOVEMBER 12, 1919.

(26,756)

(26,786)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1918.

No. 700.

COLEMAN J. WARD ET AL., PETITIONERS,

vs.

THE BOARD OF COUNTY COMMISSIONERS OF LOVE  
COUNTY, OKLAHOMA.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE  
OF OKLAHOMA.

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# In the Supreme Court of the United States

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Coleman J. Ward et al.,

*Petitioners,*

vs.

The Board of County Commissioners of  
Love County, Oklahoma,

*Respondent.*

}  
}  
**No.**

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## TRANSCRIPT OF RECORD IN THE SUPREME COURT OF OKLAHOMA.

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Be it known, That on May 29, 1916, there was filed in the office of the Clerk of the Supreme Court a petition in error with case-made attached, which is in words and figures as follows:

“In the Supreme Court of the State of Oklahoma.

The Board of County Commissioners of Love County, Oklahoma, Plaintiffs in Error v. Coleman J. Ward et al., and C. A. Greenless, Trustee, Defendants in Error. No. 8356.

(Filed May 29, 1916. William M. Franklin, Clerk.)

Now comes the Board of County Commissioners of Love County, Oklahoma, plaintiffs in error in the above entitled cause, and complain of Coleman J. Ward et al., and

C. A. Greenlees, Trustee, defendants in error herein, and respectfully represent and show to the Court:

That heretofore, to-wit: on the 3rd day of December, 1915, in an action there pending in the District Court of Love County, Oklahoma, wherein the defendants in error were plaintiffs and the plaintiffs in error herein were defendants, involving the refund of taxes paid to the amount of \$10,164.24, by consideration and judgment of said District Court of Love County, Oklahoma, said defendants in error had and recovered judgment against plaintiffs in error for the said sum of \$10,164.24, together with interest thereon at the rate of 6 per cent per annum from the 4th day of November, 1915, and for costs of the action.

Plaintiffs in error respectfully represent and show to this Court that there was and is error in said action, ruling and judgment of the District Court of Love County, Oklahoma, prejudicial to the rights of plaintiffs in error, as will more fully appear by reference to the Transcript of the Record hereto attached and made a part of this Petition in Error, and which said errors are specified as follows:

First: That the trial court erred in overruling the demurrer of plaintiffs in error to the petition of defendants in error (R. pp. 288, 289, 290).

Second: That the trial court erred in overruling the first special demurrer of the plaintiffs in error to the petition of defendants in error (R. pp. 288, 289, 290).

Third: That the trial court erred in overruling the second special demurrer of the plaintiffs in error to the petition of defendants in error (R. pp. 288, 289, 290).

Fourth: That the trial court erred in rendering judgment in favor of the defendants in error and against the plaintiffs in error in said cause, to which action, rulings and judgment of the trial court the plaintiffs in error then and there in open court duly excepted (R. pp. 288, 289, 290, 292).

Wherefore plaintiffs in error pray that defendants in error be summoned as required by law and that upon final hearing hereof plaintiffs in error have judgment reversing the judgment of the trial court herein, and that said District Court of Love County, Oklahoma, be directed by this Court to sustain the General and Special Demurrers of the plaintiffs in error to the petition of the defendants in error, and for all other and proper relief.

B. C. LOGSDON,  
*County Attorney, Love Co., Okla.,*  
*Attorney for Plaintiffs in Error.*

(CASE-MADE) No. 8356.

In the District Court in and for Love County, State of Oklahoma.

Coleman J. Ward, in his own behalf, and for and in behalf of sixty-six other persons similarly situated, by C. A. Greenlees, Trustee, Claimants, vs. Board of County Commissioners of Love County, Oklahoma, Defendant. No. 630. J. E. Bennett, Attorney for Claimants, B. C. Logsdon, Attorney for Defendants.

(Filed May 29, 1916. William M. Franklin, Clerk.)

INDEX TO TRANSCRIPT OF RECORD.

In the District Court in and for Love County, State of Oklahoma.

Coleman J. Ward et al., Claimants, v. Board of County Commissioners of Love County, Oklahoma, Defendants. No. 630.

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This case was commenced when the Claimants (Coleman J. Ward, in his own behalf and for and in behalf of sixty-six other persons, similarly situated), filed Claim No. 450 with the County Clerk of Love County, Oklahoma, for a refund of taxes, alleged to have been erroneously paid, in the sum of Seven Thousand Eight Hundred Twenty-three and 35-100 Dollars principal, and Two Thousand Three Hundred Forty and 89-100 Dollars interest, totaling Ten Thousand One Hundred Sixty-four and 24-100 Dollars.

Before the County Commissioners of Love County, State of Oklahoma.

Coleman J. Ward, in his own behalf, and for and in behalf of sixty-six other persons similarly situated, by



C. A. Greenlees, Trustee, Claimants, v. The Board of County Commissioners of Love County, Oklahoma, defendant.

Comes now Coleman J. Ward, a duly allotted citizen of the Choctaw Tribe of Indians, duly allotted, within Love County, Oklahoma, to a tract of land hereinafter described, as shown in Exhibit "L"-1 hereof, in his own behalf and for and in behalf of sixty-six other persons truly allotted as Choctaw and Chickasaw Citizens in Love County, Oklahoma, by C. A. Greenlees, Trustee for Claimants, and for his claim herein against Love County, alleges and states:

1. That Love County is a Municipal Corporation and one of the counties of the State of Oklahoma, erected, existing and maintaining its organization under and by virtue of the constitution and laws of the State of Oklahoma; that heretofore all the lands lying within the confines of Love County were lands of the Choctaw and Chickasaw Tribes of Indians in the Indian Territory, and were owned and occupied by them in common and until allotted in severalty; that under and by virtue of the Act of Congress of June 28th, 1898 (30th Statute 495), and other Acts of Congress, said lands were duly allotted in fee in severalty to citizens of said tribes selecting lands within said county; that under and by virtue of the Act of Congress June 28th, 1898, above plead, and other Acts of Congress relative thereto, together with the Enabling Act of the State of Oklahoma, together with Section Six (6), Article Ten (10) of the Constitution of the State of Oklahoma, and other provisions of said constitution relative thereto and Section 7303, Revised Laws of Oklahoma, 1910, and other provisions of the Statutes of Oklahoma, relative to exemptions from taxation of certain Indian lands, all of said lands of the Choctaw and Chickasaw Tribes of Indians and all of the lands of the Choctaw and Chickasaw Indians Allotted within Love County, Oklahoma, are and were non-taxable while title to said lands remains in the original allottee, not exceeding twenty-one (21) years from date of patent; that at all times alleged

in this petition said period of exemption from taxation as to said lands has not yet expired; that the title conveyed by said allotment as aforesaid, to said citizens was an estate in fee simple, and by said treaty, because of the surrender by the allottee of his interest in the common property of the Choctaw and Chickasaw Tribes, the said allottee thereby acquired a vested estate, in and to an allotment of non-taxable land; that each of the claimants, being allottees herein, was vested with such title to all the lands referred to herein in the year 1908 and during each succeeding year hereinafter referred to.

2. Notwithstanding the rights of said allottees, claimants herein, to hold their allotments within Love County, Oklahoma, exempt from taxation, and in violation of the terms of said treaties, Acts of Congress, constitutional provisions of the State of Oklahoma, and Statutes of the State of Oklahoma, made in solemn conformity to said Treaty obligations, and in violation of the express duty imposed by law upon the officers of said State and county to protect the rights of said allottees, the assessors appointed by law to value, assess and levy taxes within said county, and the county treasurers appointed by law to extend and collect taxes within Love County, said officers did without authority unlawfully value, assess, levy and extend taxes against all of said real estate allotted to claimants herein, for the respective years hereinafter more particularly indicated and set forth, and at the times and in the amounts hereinafter to be set forth with particularity, and that thereupon the County Treasurer of Love County unlawfully and in violation of the rights of said allottees, did demand of them that they pay to said county as taxes said sums so levied and assessed against their respective allotments and that said treasurer did threaten to sell and did advertise for sale and did sell like Indian lands to recover said sums as taxes so valued, levied, assessed and extended against each respective claimant's allotment; that said sums levied as taxes upon and against the allotments of these claimants created a purported lien upon

said lands and did cloud the titles to claimants' lands so allotted to them, as alleged hereinbefore, which liens and clouds remained thereon until removed or extinguished; that upon learning of the action of the officers of said county, as aforesaid, and of similar actions in other counties of the State of Oklahoma, throughout the territory formerly embraced in the Choctaw and Chickasaw Nations, the citizens of the Choctaw and Chickasaw Nations protesting and objecting to said assessing and taxing of their lands, instituted suit in the Superior Court of Logan County, Oklahoma, against M. E. Trapp, as Auditor of the State of Oklahoma, and a member of the State Board of Equalization and against other defendants to restrain and enjoin them and each of them from assessing said lands for taxation or doing any of the several things required by the Revenue Taxation Laws of the State of Oklahoma, from the assessment up to the making of the tax rolls in the process of levying and collecting of the taxes from the taxable property in said State of Oklahoma, wherein any of said Acts related to or referred to or in any wise affecting any of the lands allotted to citizens of the Choctaw and Chickasaw Nations; said M. E. Trapp and the remaining defendants were so restrained, as prayed, at the commencement of suit, from collecting moneys claimed to be due for taxes against said exempt property and from receiving from these claimants or any other persons similarly situated, any money claimed to be due for taxes upon lands so allotted to Indian citizens of the Choctaw and Chickasaw Nations, which restraining order was duly served upon the taxing authorities of the State of Oklahoma; that in said causes the defendants demurred to the petition thereof, which demurrer was sustained, and the restraining order theretofore granted was set aside; that the plaintiffs in said action, the Choctaw and Chickasaw Citizens' after protesting against the assessment for taxation and the collection of taxes upon the Indian Allotments of the Choctaw and Chickasaw Tribes, appealed from the action of the trial court, sustaining said demurrer to the Supreme Court of the State of Oklahoma, said ac-

tion being No. 1856 of the records of the Supreme Court of said State, and that thereafter the Supreme Court on March 21, 1911, sustained the action of the trial court in sustaining the demurrer thereto and in dissolving the restraining order commanding that said lands should be non-taxable and not subject to assessment and taxation by the State and county officers of the State of Oklahoma, defendants therein; that said Choctaw and Chickasaw Citizens further protesting and objecting to the assessment for taxation of said lands and the collection of taxes thereon, appealed from the decision of the State Supreme Court of Oklahoma, to the Supreme Court of the United States, where said cause remained until determined in May, 1913; that numerous other suits were instituted by citizens of the Choctaw and Chickasaw Tribes of Indians by which said Indian citizens protested and contended and objected to the assessing and taxing of their lands or the collection of taxes thereon; that in 1909 in the Superior Court of Pittsburg County, Oklahoma, one Michael Gleason, a citizen by blood of the Choctaw Tribe of Indians, in his own behalf and for and in behalf of all Indian citizens in eleven (11) counties covering the greater part of the Choctaw and Chickasaw country, filed their suit praying for an injunction against J. L. Wood, the County Treasurer of Pittsburg County, Oklahoma, together with the county treasurers of said eleven (11) respective counties, all parties entering their appearance and waiving jurisdiction and misjoinder praying the Superior Court of Pittsburg County to enjoin said officers and each of them from the levying, valuing, extending, assessing, taxing and collecting of taxes upon allotments of Choctaw and Chickasaw citizens for the year 1910; that the Superior Court of Pittsburg County denied plaintiffs in said suit their right of an injunction upon the defendants therein to enjoin the collection of said taxes and that said cause was thereafter duly appealed to the Supreme Court of the State of Oklahoma, and that on March 21, 1911, the Supreme Court of the State of Oklahoma, sustained the action of the Superior Court of Pittsburg County, and declined and re-

fused to enjoin the collection of said taxes; reference is made to Vol. 28 of the Oklahoma reports at page 502 to opinion of said cause. That thereafter said cause was duly appealed from the Supreme Court of the State of Oklahoma to the Supreme Court of the United States, and the decision of the Superior Court of Pittsburg County, and that of the Supreme Court of the State of Oklahoma, denying the petition of plaintiff praying for an injunction was overruled; reference is made to the case of *Michael Gleason v. J. I. Wood*, Report in Vol. 224 of United States Supreme Court, Reports at page 679, wherein said Court overruled the demurrer to petition and issued its mandate to the Supreme Court of the State of Oklahoma directing that the demurrer to the petition filed in that case be overruled; that thereafter the mandate of the Supreme Court of the State of Oklahoma directed the Superior Court of Pittsburg County to overrule said demurrer; that thereafter the defendants in said cause in the Superior Court of Pittsburg County filed their answer to the petition of Michael H. Gleason and others, and that upon the interposition of the demurrer of plaintiffs, said demurrer was sustained to the answer of said defendants in said cause; thereafter said defendants caused an appeal to be taken to the Supreme Court of the State of Oklahoma, for the Superior Court sustaining the demurrer to said answer and said cause again was taken on appeal to the Supreme Court of the State Oklahoma, where, on June 30, 1913, the action of the Superior Court of Pittsburg County in sustaining the demurrer to the answer of the defendants in the Pittsburg County case was sustained; a motion for rehearing being filed in said cause, and on April 28th, 1914, said hearing was denied; reference is made to the 43 Volume of Oklahoma State Reports at page 9, to the opinion of said case. Claimants allege herein further that numerous other suits and protests and objections were lodged in the courts of the State of Oklahoma, protesting and objecting and contending against the payment of taxes by Indian citizens of the Choctaw and Chickasaw Tribes upon their allotments; claimants allege further that

pending the decision of said causes the defendants therein being the county officers of the respective counties of Oklahoma, within that territory originally comprising the Choctaw and Chickasaw Nations, together with the officers of the State of Oklahoma, did unlawfully and in direct violation of the Treaty rights of the citizens of the Choctaw and Chickasaw Tribes assess for taxation in the years 1908, 1909, 1910 and 1911 and for succeeding years, the allotments of claimants hereinafter set out, and did in each of said years, wherein said assessments were made, receive taxes against said allotments they, the said officers of said counties and including the officers of Love County, Oklahoma, well knowing that said actions were still pending in said courts. Under the laws of the State of Oklahoma, taxes levied and not paid by the first (1st) day in the ensuing month of January have added to them a heavy penalty and following said January, if said taxes are not paid by July said lands so taxed are advertised for sale and sold for such delinquent taxes; that Love County, through its said officers, in each of said years, did require the said Choctaw and Chickasaw claimants herein to pay to the treasurer of said county the taxes so levied upon their respective allotments set forth hereinafter, and contended and threatened that if same were not paid, said lands would be sold for non-payment of taxes and costs, and the said Choctaw and Chickasaw claimants herein fearing that said threat would be enforced and carried out, the said officers contending, urging and holding out that the lands of said claimants were not exempt from taxes, and that the laws which had theretofore rendered them non-taxable had been changed, modified and repealed, and that said allottees, claimants herein, fearing that said contention that said lands were taxable was true, but refusing to believe that the same was true, paid the taxes levied and assessed against said lands for said years in the sums hereinafter set out in each respective cause of action, said Indian citizens at the time of said payment objecting and protesting to said County Treasurer, and the said County Treasurer well knowing at the time of re-

ceiving said taxes, that actions were still pending and undetermined in the courts of the State and in the Federal Courts as alleged hereinbefore. Said Choctaw and Chickasaw citizens fearing that said contention and representation of said county officers that said lands were taxable, was true, as hereinbefore averred, and for the further purpose of preventing the heavy penalty provided under the laws of the State of Oklahoma, from being imposed for non-payment of taxes and to prevent said lands from being sold for the non-payment of taxes, and in order to protect themselves against great loss and damage, in the event such action so pending was decided against them, did pay said amounts as alleged taxes to the treasurer of Love County, and the said County officers of Love County at the time of said payment knew full well that each of said Indian Citizens were protesting and objecting to the assessment and taxation of their lands with all the force and power possessed by them, they carrying their complaints to the highest Court of the Nation. That the officers of Love County, and of the State of Oklahoma, by reason of the facts hereinbefore alleged, by duress and threats did enforce the payment of said sums so charged as taxes against said lands; that said officers were acting under a mistake both of law and fact, and mistake of law amounting to mistake of fact in so doing, in that they believed and did so represent to said Indian citizens and allottees and to the claimants, that the Threats and Acts and Laws erecting and extending the tax exemptions on their lands had been repealed by law, when in truth and in fact said laws had not been repealed, but were and are now in full force and effect; that said allottees were familiar with the guarantees of said Treaties, but were by reason of said representations of the officers, placed in fear and under duress, and because of said fear and duress did pay said sums alleged to be assessed against them as taxes, and the said allottees acting under a mistake of facts as to their rights and as aforesaid, and being in fear that their allotments would be sold for taxes, in fear and under duress as aforesaid, and further pro-



testing and objecting did pay said sums as taxes and so charged against their allotments.

3. That by reason of the unlawful and unauthorized acts of the Taxing Authorities of the State of Oklahoma, and of Love County, as heretofore alleged, Love County has obtained from claimants without authority of law the sums of money as set forth in claimant's respective causes of action, and the complaint herein plead it is the duty of Love County to refund to said claimants said respective sums; that the obligation to do justice which rests upon all persons natural and artificial, should impose itself upon Love County to return said sums, which sums in law and in equity and good conscience, she has no right to retain from claimants; the total sums so unlawfully collected, and for which payment is herein demanded is the sum of Seven Thousand Eight Hundred Twenty-three and 35-100 Dollars; that there is due claimants, who are the owners and holders of all demands included herein, said sums, together with interest on the several sums so paid from the date of payment at six (6%) per cent per annum, being \$2,340.89 interest; the total sum for which claimants demand refund being \$10,164.24.

For his first cause of action herein plaintiff refers to paragraph one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$98.43 so paid defendant on the 28th day of March, 1911, with interest thereon from said date at 6% per annum until paid being the sum of \$27.67.

The total sum herein demanded by plaintiff being \$98.43 principal and \$27.67 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-1 hereto attached, filed

herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff.

Plaintiff further alleges that no part of said claim has been paid him or any one for him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Roll A-11928

Township 9 South, Range 1 East, Section 3.

Coleman J. Ward, Sex M; Blood 1-32; Age 19.

Description, S $\frac{1}{2}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$ , E $\frac{1}{2}$ , SW $\frac{1}{4}$  and NW $\frac{1}{4}$ ; W $\frac{1}{2}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$ ; S $\frac{1}{2}$  NE $\frac{1}{4}$  NE $\frac{1}{4}$  N $\frac{1}{2}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$  E $\frac{1}{2}$  SW $\frac{1}{4}$  NW $\frac{1}{4}$  SW $\frac{1}{4}$  NW $\frac{1}{4}$ ; 1908 tax, \$59.55, paid 3-28-11; 1909 tax, \$38.88, paid 3-28-11. Total \$98.43.

State of Oklahoma, Love County.

Personally appeared before me the undersigned authority, one Coleman J. Ward who being first duly sworn, states that he is a citizen of the Choctaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment, as shown by the Tax Rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments as shown, and paid the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the Assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee be-

lieving because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were in fact non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to any one for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Coleman J. Ward.

Subscribed and sworn to before me this 13th day of September, 1915.

(Seal)

F. W. Howell, Notary Public.

My commission expires Jan. 22, 1919.

#### ASSIGNMENT OF CLAIM.

I, Coleman J. Ward, allottee as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and costs so collected, and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 13th day of September, 1915.

Coleman J. Ward,

"Exhibit L-1."

C. A. Greenlees.

For his 2nd cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$31.68 so paid defendant on the 24th day of May, 1910, with interest thereon from date at 6% per annum until paid, being the sum of \$10.19; and the further sum of \$29.44, so paid defendant on the 4th day of May, 1911, with interest thereon at 6 per cent per annum from said date in the sum of \$7.80; and the further sum of \$36.67 so paid defendant on the 27th day of January, 1912, with interest thereon at 6 per cent per annum from date in the sum of \$8.55.

The total sum herein demanded by plaintiff being \$99.79 principal and \$26.54 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-2 hereto attached, filed herewith and made a part hereof as though set forth at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or any one for him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX

Township 7 South, Range 3 East, Section 8.

Roll 427.

Allottee Lena Taylor, Sec. F. Blood I. W., Age 35.

Description, E $\frac{1}{2}$  SW $\frac{1}{4}$ ; W $\frac{1}{2}$  SE $\frac{1}{4}$ ; 1909 tax, \$31.68, paid, 5-24-10; 1910 tax, \$29.44, paid 5-14-11; 1911 tax, \$38.67, paid 1-1-12. Total, \$99.79.

State of Missouri, Howard County.

Personally appeared before me the undersigned authority, one Lena Taylor, who being first duly sworn, states that she is a citizen of the Nation of the Five Civilized Tribes, in fact and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties, and costs, on said allotment, as shown by the Tax Rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid, the respective sums so paid by the allottee being paid under duress and and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and authorized acts and threats of the Assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to any one for him.

Wherefore, Affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom.

and to pay the same to one C. A. Greenlees, who is trustee for affiant to receive same.

Lena Taylor.

Subscribed and sworn to before me this 21st day of August, 1915.

(Seal)

Victor R. Bowen, Notary Public.

My commission expires Sept. 25, 1915.

#### ASSIGNMENT OF CLAIM.

I, Lena Taylor, allottee as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suit, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and cost so collected, and shall retain all the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Lena Taylor,

"Exhibit L-2."

C. A. Greenlees.

For his 3rd cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of ac-

tion as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$33.01 so paid defendant on the 15th day of November, 1910, with interest thereon from said date at 6 per cent per annum of \$28.31 so paid defendant on the 24th day of November, 1911, with interest thereon at 6 per cent per annum from said date in the sum of \$6.71; and the further sum of \$12.92 so paid defendant on the 4th day of January, 1912, with interest thereon at 6 per cent per annum from date in the sum of \$2.90.

The total sum herein demanded by plaintiff being \$74.04, principal, and \$19.45 interest thereon.

Be reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. 1, 3 hereto attached, filed herewith and made a part hereof, as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or any one for him, and that said demand is just, true, due and wholly unpaid.

#### AFFIDAVIT FOR REFUND OF ERRONEOUS TAX

Township 6 South, Range 1 East, Sections 21, 22, 23.  
Roll C-4486.

Allottee Ester B. Wallace.

Sex F; Blood  $\frac{1}{2}$ ; Age 17.

Description, Section 21 E $\frac{1}{2}$  NE $\frac{1}{4}$  NE $\frac{1}{4}$ . 1909 tax \$1.79 Pd. 10-15-10; 1910 tax \$3.75 Pd. 10-24-11; 1911 tax \$1.54 Pd. 1-4-12.

Section 22, S $\frac{1}{2}$  S $\frac{1}{2}$  NE $\frac{1}{4}$ , N $\frac{1}{2}$  N $\frac{1}{2}$  SE $\frac{1}{4}$ ; N $\frac{1}{2}$  SW $\frac{1}{4}$ , 1909 tax \$26.76, 10-15-10; 1910 tax \$20.61, 10-24-11; 1911 tax \$9.72, 1-4-12. Section 23 N $\frac{1}{2}$  NW $\frac{1}{4}$ , SW $\frac{1}{4}$ , 1909 tax \$4.46, 10-15-10; 1910 tax \$3.75, 10-24-11; 1911 tax \$1.66, 1-4-12. Total tax \$74.04.



State of Oklahoma, Love County.

Personally appeared before me the undersigned authority, one Ester B. Pittman, nee Wallace, who being first duly sworn states that she is a citizen of the Chickasaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment, as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the Assessors and County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax and in threatening to sell, in advertising for sale and offering to sell said lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to any one for him.

Wherefore, Affiant prays for the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Ester B. Pittman.

Subscribed and sworn to before me this 13th day of September, 1915.

(Seal)

Ida Williams, Notary Public.

My commission expires July 22, 1917.

#### ASSIGNMENT OF CLAIM.

I, Ester B. Pittman, nee Wallace, allottee as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and cost so collected, and shall retain all of the remainder of the same collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 13th day of September, 1915.

Ester B. Pittman,

"Exhibit L.3."

C. A. Greenlees.

For his 4th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$86.78 so paid defendant on the 7th day of April, 19—, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$23.39.

The total sum herein demanded by plaintiff being \$86.78 principal and \$23.39 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-4 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or any one for him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 7 South, Range 1 East, Section 12.

Roll C-3827.

Allottee, Roy C. Green, Sex M; Blood 1-32; Age 13.

Description, NE $\frac{1}{4}$  NE $\frac{1}{4}$  NW $\frac{1}{4}$ ; W $\frac{1}{2}$  NE $\frac{1}{4}$  NW $\frac{1}{4}$  NW $\frac{1}{4}$  NW $\frac{1}{4}$ ; NW $\frac{1}{4}$  SW $\frac{1}{4}$  NW $\frac{1}{4}$ ; N $\frac{1}{2}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$ ; E $\frac{1}{2}$  SW $\frac{1}{4}$  NW $\frac{1}{4}$ ; SW $\frac{1}{4}$  NW $\frac{1}{4}$ ; NE $\frac{1}{4}$  NW $\frac{1}{4}$  SW $\frac{1}{4}$ ; N $\frac{1}{2}$  SW $\frac{1}{4}$  SW $\frac{1}{4}$ ; 1909 tax \$50.30; Pd. 4-7-11; 1910 tax \$36.48; 4-7-11. Total tax \$86.78.

State of California, County of Los Angeles.

Personally appeared before me the undersigned authority, one Roy C. Green, who being first duly sworn states that he is a citizen of the Chickasaw Nation of the Five Civilized Tribes in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who under a mistake of law and fact, taxes, penalties and costs on said allotment, as shown by the Tax Rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit said allotment being owned by the allottee at the time said assessments are shown, and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and

threats of the Assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for non-payment of said tax, did pay the tax, penalty and costs so assessed; that said payment was without authority of law, and that said lands were in fact non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to any one for him.

Wherefore, Affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Roy C. Green.

Subscribed and sworn to before me this 7th day of September, 1915.

(Seal)

C. Newell Carns,

Notary Public, in and for the County of Los Angeles,  
State of California.

My commission expires July 25, 1918.

#### ASSIGNMENT OF CLAIM.

I, Roy C. Green, allottee as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty

and costs collected herein, or that proportion of the tax, penalty and cost so collected and shall retain all the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted hereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 14th day of August, 1915.

“Exhibit L-4.”

Roy C. Green,  
C. A. Greenlees.

For his 5th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$49.22 so paid defendant on the 16th day of February, 1911, with interest thereon from date at 6 per cent per annum, until paid, being the sum of \$13.63; and the further sum of \$35.63 so paid defendant on the 3rd day of September, 1912, with interest thereon at 6 per cent per annum from said date in the sum of \$6.59.

The total sum herein demanded by plaintiff being \$84.45 principal and \$20.22 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-5 hereto attached, filed herein with and made a part hereof, as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or any

one for him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX

Township 6 South, Range 3 East, Section 20.  
Roll A-14250.

Allottee, Eliza Alexander; Sex F; Blood 1-8; Age 41.

Description, N $\frac{1}{2}$  N $\frac{1}{2}$  SW $\frac{1}{4}$ ; NE $\frac{1}{4}$  NW $\frac{1}{4}$  N $\frac{1}{2}$  NE $\frac{1}{4}$  NW $\frac{1}{4}$  N $\frac{1}{2}$  NE $\frac{1}{4}$  NW $\frac{1}{4}$ ; SE $\frac{1}{4}$  NW $\frac{1}{4}$ ; 1909 tax, \$49.22, paid 2-16-11; 1910 tax, \$35.63, paid 9-3-12. Total tax, \$84.85.

State of Oklahoma, Love County.

Personally appeared before me the undersigned authority, one Eliza Alexander, who being first duly sworn states that she is a citizen of the Choctaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties, and costs on said allotments, as shown by the Tax Rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid, the respective sums so paid by the allottee being under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the Assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax, did pay the tax, penalty and costs so assessed. That

said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to any one for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Eliza Alexander.

Subscribed and sworn to before me this 10th day of September, 1915.

(Seal)

F. W. Howell, Notary Public.

My commission expires January 22, 1919.

#### ASSIGNMENT OF CLAIM.

I, Eliza Alexander, allottee as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and cost so collected, and shall retain all the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon with-



in the period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 10th day of September, 1915.

“Exhibit L-5.”

Eliza Alexander,  
C. A. Greenlees.

For the 6th cause of action hereby plaintiff refers to paragraphs one, two and three thereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$31.24 so paid defendant on the 18th day of November, 1910, with interest thereon from said date at 6 per cent per annum, until paid, being the sum of \$9.15; and the further sum of \$28.44 so paid defendant on the 13th day of May, 1911, with interest thereon at 6 per cent per annum from said date in the sum of \$7.69; and the further sum of \$82.00 so paid defendant on the 15th day of June, 1914, with interest thereon at 6 per cent per annum from date in the sum of \$6.44.

The total sum herein demanded by plaintiff being \$141.76 principal and \$23.18 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-6, hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or any one for him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX

Township 8 South, Range 1 East, Section 1.  
Roll C-4325.

Allottee, Vertis Cochran; Sex F; Blood 1-8; Age 4.  
Description, S $\frac{1}{2}$  NE $\frac{1}{4}$ ; 1909 tax, \$15.84, paid 11-18-10;  
1910 tax, \$15.73, paid 5-3-11; 1911 tax, \$41.04, paid 6-13-14.  
Township 8 South, Range 2 East, Section 6.

Description, SE $\frac{1}{4}$  NW $\frac{1}{4}$  and Lot 5; 1909 tax, \$15.40,  
11-18-19; 1910 tax, \$12.71, 5-13-11; 1911 tax, \$41.04, 6-13-14.  
Total tax, \$141.76.

State of Oklahoma, Love County.

Personally appeared before me the undersigned authority one William Hunter Cochran, Guardian, who being first duly sworn states that Vertis Cochran is a citizen of the Chickasaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment, as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and no wmade a part of this affidavit, said allotment being owned by the allottees at the time said assessments are shown, and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were in fact non-taxable for said years,

and that the sums so collected have not been returned to allottee, nor to any one for him.

Wherefore, Affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

William Hunter Cochran.

Subscribed and sworn to before me this 30th day of August, 1915.

(Seal)

W. L. Richards, Court Clerk.

By Ona English, Deputy.

#### ASSIGNMENT OF CLAIM.

I, William Hunter Cochran, Guardian, allottee as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and costs so collected, and shall retain all the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 30th day of August, 1915.

William Hunter Cochran,  
"Exhibit L-6." C. A. Greenlees.

For his 7th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$17.65 so paid defendant on the 6th day of June, 1910, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$5.65; and the further sum of \$17.12 so paid defendant on the 13th day of May, 1911, with interest thereon at 6 per cent per annum from said date in the sum of \$3.51; and the further sum of \$46.18 so paid defendant on the 13th day of June, 1914, with interest thereon at 6 per cent per annum from date in the sum of \$3.63.

The total sum herein demanded by plaintiff being \$80.95 principal and \$12.79 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-7 hereto attached, filed herewith and made a part hereof, as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or any one for him, and that said demand is just, true, due and wholly unpaid.

#### AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 8 South, Range 1 East, Section 1. Tax Roll.  
Roll D-529.

Allottee, Carrie Cochran; Sex F; Blood I W; Age 25.

Description, S½ SE¼; 1909 tax, \$15.84, paid 5-6-10;

1910 tax, \$15.73, paid 5-13-11; 1911 tax, \$41.94, paid 1-11-14; Township 8 South, Range 2 East, Section 6.

Description, SW 9.10 A. of Lot 7; 1909 tax \$1.81, 6-6-10; 1910 tax, \$1.39, 5-13-11; 1911 tax, \$5.14, 6-13-14. Total tax, \$80.95.

State of Oklahoma, Love County.

Personally appeared before me the undersigned authority, one Carrie Cochran, who being first duly sworn states that she is a citizen of the Chickasaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment, as shown by the Rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the Assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law and that said lands were, in fact, non-taxable, for said years, and that the sums so collected have not been returned to allottee nor to any one for him.

Wherefore, Affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom

and to pay the same to one C. A. Greenlees, who is trustee for affiant to receive same.

Carrie Cochran.

Subscribed and sworn to before me this 30th day of August, 1915.

(Seal)

W. L. Richards, Court Clerk.

By Ona English, Deputy.

ASSIGNMENT OF CLAIM.

I, Carrie Cochran, allottee as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same,, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recover herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs, collected herein, or that proportion of the tax, penalty and cost so collected, and shall retain all of the remainder of the sums, collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted hereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 30th day of August, 1915.

Carrie Cochran.

“Exhibit L-7.”

C. A. Greenlees.

For his 8th cause of action plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of same as a part of this cause of action as though set forth herein at length; and without this alleges

and states that the defendant is indebted to plaintiff who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$31.28 so paid defendant on the 18th day of November, 1910, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$9.32; and the further sum of \$28.49 so paid defendant on the 13th day of May, 1911, with interest thereon at 6 per cent per annum from said date in the sum of \$7.36; and the further sum of \$82.08 so paid defendant on the 13th day of June, 1914, with interest thereon at 6 per cent per annum from said date in the sum of \$6.34.

The total sum herein demanded by plaintiff being \$141.85 principal and \$23.12 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. 1-8 hereto attached, filed herewith and made a part hereof, as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or any one for him, and that said demand is just, true, due and wholly unpaid.

#### AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 8 South, Range 1 East, Section 1-6. Tax Roll. Roll C-4326.

Allottee, Samuel T. Cochran, Sex M; Blood 1-8; Age 2.

Description, Section 1 N<sup>1</sup>/<sub>2</sub> SE<sup>1</sup>/<sub>4</sub>, 1909 tax \$15.84, 11-18-10; 1910 tax \$15.73, 5-13-11; 1911 tax \$41.04, 6-13-14. Township 8 South, Range 2 East, Section 6.

Description, NE<sup>1</sup>/<sub>4</sub> SW<sup>1</sup>/<sub>4</sub>; Lot 6; 1909 tax \$15.44, 11-18-10; 1910 tax \$12.75, 5-13-11; 1911 tax \$41.04, 6-13-14. Total tax \$141.85.

State of Oklahoma, Love County, ss.

Personally appeared before me the undersigned au

thority one William Hunter Cochran, Guardian, who being first duly sworn, states that Samuel T. Cochran is a citizen of the Chickasaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment as above shown by the Tax Rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid the respective sums so paid by the allottee, being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging, and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to any one for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

William Hunter Cochran.

Subscribed and sworn to before me this 30 day of August, 1915.

W. L. Richards, Court Clerk.  
Ona English, Deputy.

(Seal)



ASSIGNMENT OF CLAIM.

I, William Hunter Cochran, Guardian ad litem, as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees, that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs, collected herein, or that proportion of the tax, penalty and cost so collected, and shall retain all the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 30th day of August, 1915.

William Hunter Cochran.

"Exhibit L-8."

C. A. Greenlees.

For his 9th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$29.76 so paid defendant on the 6th day of June, 1910, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$9.52.

The total sum herein demanded by plaintiff being \$29.76 principal and \$9.52 interest thereon.

By reference plaintiff pleads all the matters alleged and set forth in Exhibit No. L-9 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or any one for him; that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 7 South, Range 2 East, Section 16. Tax Roll. Roll C-4323.

Allottee, William Hunter Cochran; Sex M. Blood  $\frac{1}{4}$ ; Age 34.

Description, SW $\frac{1}{4}$  NE $\frac{1}{4}$ ; NE $\frac{1}{4}$  SW $\frac{1}{4}$ ; 1909 tax \$29.76; 6-6-10. Total tax \$29.76.

State of Oklahoma, Love County.

Personally appeared before me the undersigned authority one William Hunter Cochran, who being first duly sworn states that he is a citizen of the Chickasaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment as shown by the Tax Rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful acts and threats of the assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax and in threatening to sell, in

advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax, did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to any one for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

William Hunter Cochran.

Subscribed and sworn to before me this 30th day of August, 1915.

W. L. Richards,

County Clerk.

(Seal)

By Ona English, Deputy.

#### ASSIGNMENT OF CLAIM.

I, William Hunter Cochran, allottee, as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and cost so collected, and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures

herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 30th day of August, 1915.

William Hunter Cochran.

"Exhibit L-9."

C. A. Greenlees.

For his 10th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff, who is the owner of this claim, as for money had and received, and which demand defendant heretofore promises to repay plaintiff, in the following sums, to-wit:

\$76.00 so paid defendant on the 12th day of April, 1910, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$24.97, and the further sum of \$81.44, so paid defendant on the 10th day of July, 1911, with interest thereon at 6 per cent per annum from said date in the sum of \$21.88.

The total sum herein demanded by plaintiff being \$162.53 principal and \$46.85 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-10 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or any one for him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 8 South, Range 3 East, Section 5-6.  
Roll C-3105.

Allottee, Jodie Jesse Mahota Love. Sex F Blood,  
3-32; Age 17. Tax Roll.

Description, Section 5, W $\frac{1}{2}$  NE $\frac{1}{4}$ ; E $\frac{1}{2}$  NE $\frac{1}{4}$ ; 1909  
tax \$71.52, 4-12-10; 1910 tax \$81.44, 7-10-11; Section 6, NE $\frac{1}{4}$   
NE $\frac{1}{4}$  SE $\frac{1}{4}$ , 1909 tax \$4.48, 4-12-10; 1910 tax \$5.09, 7-10-11.  
Total \$162.43.

State of Oklahoma, Love County.

Personally appeared before me the undersigned au-  
thority, one Jodie Jesse Mahota Culwell, nee Love, who be-  
ing first duly sworn, states that she is a citizen of the  
Chickasaw Nation of the Five Civilized Tribes, in fact,  
and as shown by the above copy of the Roll of Citizenship  
of said tribe referred to and made a part of this affidavit,  
and who paid under a mistake of law and fact, taxes, pen-  
alties and costs on said allotment, as shown by the Tax  
Rolls of Love County, Oklahoma, a true copy and de-  
scription as to said allotment being set forth hereinbefore,  
and now made a part of this affidavit, said allotment being  
owned by the allottee at the time said assessments are  
shown, and paid, the respective sums so paid by the allot-  
tee being paid under duress and fear engendered in him  
by reason of the unlawful and unauthorized threats and  
acts of the authorities of the State of Oklahoma, and the  
unlawful and unauthorized acts and threats of the assessors  
and the County Treasurer of Love County, Oklahoma, in  
assessing, levying, extending, charging and demanding said  
tax, and in threatening to sell, in advertising for sale and  
offering to sell said lands and in selling like Indian lands  
for failure to pay said tax, penalty and costs, and said  
allottee believing because of said enumerated acts and  
threats that said allotment would be sold for the non-  
payment of said tax did pay the tax, penalty and costs so  
assessed. That said payment was without authority of  
law, and that said lands were, in fact, non-taxable for said  
years, and that the sums so collected have not been re-

turned to allottee, nor to anyone for him.

Wherefore, affiant prays the Honorable Board County Commissioners of Love County, Oklahoma, to fund said tax and all his legal demand arising therefrom and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Jodie Jesse Mahota Culwell.

Subscribed and sworn to before me this 8th day September, 1915.

(Seal)

Ida Williams, Notary Public.

My Commission expires July 22, 1917.

ASSIGNMENT OF CLAIM.

I, Jodie Jesse Mahota Culwell, nee Love, allottee, shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of legal title to same, and is hereby designated trustee of said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is an agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or the proportion of the tax, penalty and cost so collected, and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted there within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 8th day of September, 1915.

Jodie Jesse Mahota Culwell.

‘Exhibit L-10.’

C. A. Greenlees.

For his 11th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff, who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$38.16 so paid defendant on the 16th day of September, 1911, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$9.27; and the further sum of \$92.18, with interest thereon at 6 per cent per annum from said date in the sum of \$19.92; and in the further sum of \$34.13, so paid defendant on the 12th day of December, 1911, with interest thereon at 6 per cent per annum from date in the sum of \$7.79; and in the further sum of \$.....

The total sum herein demanded by plaintiff being \$164.47 principal and \$36.98 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-11, hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or anyone for him, and that said demand is just, true, due and wholly unpaid.

#### AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 8 South, Range 2 East, Sections 18-19.

Roll D-345.

Allottee, Etta Green. Sex F; Blood I W; Age 32. Tax Roll.

Description, Section 18, S $\frac{1}{2}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$  N $\frac{1}{2}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$ NE $\frac{1}{4}$  10 A. Lot 3 SE 10 A. Lot 4, E 20 A. Lot 2, S $\frac{1}{2}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$  W, 18.97 A of Lot 3; SE 10 A Lot 3; NE 10 A Lot 4, W 19.13 Lot 4; 1908 tax \$31.81, 9-16-11; 1909

tax \$71.87, 9-16-11; 1910 tax \$20.31, 10-16-11; 1911 tax \$30.56, 12-12-11. Section 19 NW 9.58 A of Lot 1, 1908 tax \$2.90, 9-16-11; 1909 tax \$1.90, 9-16-11; 1910 tax \$1.55, 9-16-11; 1911 tax \$3.57, 12-12-11. Total \$164.47.

State of Oklahoma, Love County.

Personally appeared before me the undersigned authority one Etta Brooks, nee Green, who being first duly sworn, states that she is a citizen of the Chickasaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the roll of citizenship of said tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment, as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to anyone for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom,



and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Etta Brooks, nee Green.

Subscribed and sworn to before me this 9th day of Sept. 1915.

F. W. Howell,

Notary Public.

(Seal)

My Commission expires Jan. 22, 1919.

#### ASSIGNMENT OF CLAIM.

I, Etta Brooks, nee Green, allottee, as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim and authorized to sue and collect said demand, in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and cost so collected, and shall retain all the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 9th day of Sept. 1915.

Etta Brooks.

Exhibit L-11.

C. A. Greenlees.

For his 12th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and

every part of the same as a part of this cause of action as though set forth herein at length, and without this alleges and states that the defendant is indebted to plaintiff, who is the owner of this claim, as for money had and received, and which demand defendant heretofore, promised to repay plaintiff, in the following sums, to-wit:

\$102.99 so paid defendant on the 20th day of October, 1911, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$24.41; and the further sum of \$8.67 so paid defendant on the 12th day of December, 1911, with interest thereon at 6 per cent per annum from said date in the sum of \$1.98.

The total sum herein demanded by plaintiff being \$111.66 principal and \$23.38 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. 1-12, hereto attached, filed herewith, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or to anyone for him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 8 South, Range 2 East, Section 7-19.

Roll C-4063.

Allottee, William Elvie Green. Sex M; Blood 18; Age 12.

Description, Section 7, Lots 1 & 2; SW $\frac{1}{4}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$  NW $\frac{1}{4}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$  E $\frac{1}{2}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$  NE $\frac{1}{4}$  NW $\frac{1}{4}$ . Tax Roll: 1909 tax \$61.78, 10-20-11; 1910 tax \$41.21, 10-20-11. 1910 tax \$3.57, 12-17-11; 1911 tax \$2.15, 12-17-11. Total \$111.66.

State of Oklahoma, Love County.

Personally appeared before me the undersigned authority one William Elvie Green, who being first duly sworn states that he is a citizen of the Chickasaw Nation of the

Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to anyone for him.

Therefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax, and all his legal demand arising therefrom, and to pay to one C. A. Greenlees, who is trustee for affiant to receive same.

William Elvie Green.

Subscribed and sworn to before me this 9th day of Sept. 1915.

W. L. Richards, Court Clerk.  
By Ona English, Deputy.

(Seal)

ASSIGNMENT OF CLAIM.

I, William Elvie Green, allottee, as shown above, hereby

assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings, and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and cost so collected, and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 9th day of Sept. 1915.

William Elvie Green.

“Exhibit L-12.”

C. A. Greenlees.

For his 13th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff, who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$47.50 so paid defendant on the 30th day of January, 1910, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$16.22; and the further sum of \$48.63, so paid defendant on the 24th day of December, 1910, with interest thereon at 6 per cent per an-

num from said date in the sum of \$13.88 and the further sum of \$33.22 so paid defendant on the 24th day of December, 1911, with interest thereon at 6 per cent per annum from date in the sum of \$7.31.

The total sum herein demanded by plaintiff being \$118.35 principal and \$37.39 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L13 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or anyone for him, and that said demand is just, true, due and wholly unpaid.

#### AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 6 South, Range 2 East, Sections 21-28-29.  
Roll C-1983.

Alloftce, James Sanders Gilliam. Sex M; Blood  $\frac{1}{4}$ ;  
Age 18.

Description, Sec. 21 SW $\frac{1}{4}$  SE $\frac{1}{4}$ .

Tax Roll, 1909 tax \$6.92, 1-30-10; 1910 tax \$6.18, 12-24-10; 1911 tax \$2.91, 12-24-11.

Sec. 28 SW $\frac{1}{4}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$  NE $\frac{1}{4}$  NW $\frac{1}{4}$  W $\frac{1}{2}$  SW $\frac{1}{4}$  NW $\frac{1}{4}$  E $\frac{1}{2}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$  E $\frac{1}{2}$  NW $\frac{1}{4}$  SW $\frac{1}{4}$  NW $\frac{1}{4}$  SW $\frac{1}{4}$  N $\frac{1}{2}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$  NW $\frac{1}{4}$  NW $\frac{1}{4}$  SE $\frac{1}{4}$  NE $\frac{1}{4}$  NE $\frac{1}{4}$  NW $\frac{1}{4}$ , 1908 tax \$2.70, 12-24-11; 1909 tax \$33.66 12-30-10; 1910 tax \$26.27, 12-24-10; 1911 tax \$13.97, 12-24-11. Sec. 29 E $\frac{1}{2}$  NE $\frac{1}{4}$  NE $\frac{1}{4}$  E $\frac{1}{2}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$ , 1908 tax \$9.73 12-24-11; 1909 tax \$6.92, 1-30-10; 1910 tax \$6.18, 12-24-11; 1911 tax \$2.91, 12-24-11. Total \$118.35.

State of Oklahoma, Love County.

Personally appeared before me the undersigned authority one James Sanders Gilliam, who being first duly sworn, states that he is a citizen of the Chickasaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe referred

to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs, on said allotment, as shown by the Tax Rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax penalty and costs so assessed. That said payment was without authority of law, and that said lands were in, in fact, non-taxable for said year, and that the sums so collected have not been returned to allottee, nor anyone for him.

Wherefore, affiant prays the Honorable Board of Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

James Sanders Gilliam.

Subscribed and sworn to before me this 9th day of Sept., 1915.

(Seal)

W. L. Richards, County Clerk.

By Ona English, Deputy.

#### ASSIGNMENT OF CLAIM.

I, James Sanders Gilliam, allottee, as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A.

Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and cost so collected, and shall retain all of the remainder of the collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by said C. A. Greenlees.

Dated this 9th day of Sept., 1915.

James Sanders Gilliam.

Exhibit L-13.

C. A. Greenlees.

For his 14th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length, and without this alleges and states that the defendant is indebted to plaintiff, who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$47.92 so paid defendant on the 27th day of October, 1911, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$11.31 and the further sum of \$13.08 so paid defendant on the 30th day of December, with interest thereon at 6 per cent per annum from said date in the sum of \$3.00.

The total sum herein demanded by plaintiff being \$61.00 principal, and \$14.31 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-14 hereto attached, filed herewith and made a part hereof, as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or to anyone for him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR RETURN OF ERRONEOUS TAX.

Township 6 South, Range 1 East, Section 22-23.  
Roll C-4487.

Allottee, Elizabeth Vashiti Wallace. Sex F; Blood  $\frac{1}{2}$ ;  
Age 16.

Description, Sec. 22  $N\frac{1}{2}$  SE $\frac{1}{4}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$ .  
Tax Roll, 1909 tax \$14.35, 10-27-11; 1910 tax \$10.50, 10-27-11; 1911 tax \$3.57, 12-30-11. Sec. 23, W $\frac{1}{2}$  NW $\frac{1}{4}$ , 1909 tax \$10.17, 10-27-11; 1910 tax \$12.90, 10-27-11; 1911 tax \$9.51, 12-30-11. Total \$61.00.

State of Oklahoma, Love County.

Personally appeared before me the undersigned authority one Elizabeth Vashiti Forbes, nee Wallace, who being first duly sworn, states that she is a citizen of the Chickasaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the roll of citizenship of said tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unau-



thorized acts and threats of the assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs, so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to anyone for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Elizabeth Vashti Forbes.

Subscribed and sworn to before me this 19 day of August, 1915.

W. L. Richards, County Clerk.

(Seal)

By Ona English, Deputy.

#### ASSIGNMENT OF CLAIM.

I, Elizabeth Vashti Forbes, nee Wallace, allottee, as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event he recovers herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that

proportion of the tax, penalty and cost so collected, and shall retain all of the remainder of the sums collected and accruing which, shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 19th day of August, 1915.

Elizabeth Vashti Forbes.

"Exhibit L-14."

C. A. Greenlees.

.. For his 15th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff, who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$60.27 so paid defendant on the 29th day of December, 1909, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$20.86; and the further sum of \$51.39 so paid defendant on the 2nd day of November, 1911, with interest thereon at 6 per cent per annum from said date in the sum of \$17.78; and in the further sum of \$24.80 so paid defendant on the 27th day of January, 1912, with interest thereon at 6 per cent per annum from date in the sum of \$5.60.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-15 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or anyone for

him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 7 South, Range 2 West, Sections 20-30-33.  
Roll A-14892.

Allottee, Charley Fowler. Sex M; Blood  $\frac{1}{8}$ ; Age 4.

Description, Sec. 29, S $\frac{1}{2}$  NE $\frac{1}{4}$  E $\frac{1}{2}$  SW $\frac{1}{4}$  NW $\frac{1}{4}$ . Tax Roll, 1909 tax \$20.10, 12-29-11; 1910 tax \$15.23, 12-29-11; 1911 tax \$7.22, 12-29-11. Section 30, N 18, 33 A. of Lot 3, NW $\frac{1}{4}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$  N $\frac{1}{2}$  NW $\frac{1}{4}$  SE, 1909 tax \$17.69, 12-29-11; 1910 tax \$17.81, 11-2-11; 1911 tax \$8.91, 12-2-11. Section 33, NE $\frac{1}{4}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$  SW $\frac{1}{4}$  SE $\frac{1}{2}$  NW $\frac{1}{4}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$  S $\frac{1}{2}$  SW $\frac{1}{4}$  N $\frac{1}{2}$  NE $\frac{1}{4}$  SW $\frac{1}{2}$  SE $\frac{1}{4}$ , 1909 tax \$22.48, 12-29-11; 1910 tax \$18.35, 11-2-11; 1911 tax, \$8.68, 12-29-11. Total \$136.46.

State of Oklahoma, Love County.

Personally appeared before me the undersigned authority one Ida Lemon, mother of Charlie Fowler, minor, who being first duly sworn, states that he is a citizen of the Choctaw Nation of the Five Civilized Tribes, in fact, and as shown by the above made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment, as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore and now made a part of this affidavit said allotment being owned by the allottee at the time said assessments are shown, and paid the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma; and the unlawful and unauthorized acts and threats of the assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing

because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were in fact non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to anyone for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Ida Lemon,

Mother of Charley Fowler.

Subscribed and sworn to before me this 21 day of August, 1915.

(Seal)

R. A. Hall,  
Notary Public.

My commission expires Jan. 28, 1919.

#### ASSIGNMENT OF CLAIM.

I, Ida Lemon, mother of Charley Fowler, minor, allottee, as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated for said claim and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and cost so collected, and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by said C. A. Greenlees.

Dated this 21 day of August, 1915.

Ida Lemon, Mother of Charlie Fowler.

“Exhibit L-15.” C. A. Greenlees.

For his 16th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$80.55 so paid defendant on the 14th day of January, 1910, with interest thereon from said date at 5 per cent per annum until paid, being the sum of \$27.63; and the further sum of \$35.15 so paid defendant on the 19th day of December, 1910, with interest thereon at 6 per cent per annum from said date in the sum of \$10.11; and in the further sum of \$66.54 so paid defendant on the 19th day of December, 1911, with interest thereon at 6 per cent from date in the sum of \$15.14.

The total sum herein demanded by plaintiff being \$145.24, principal, and \$52.88 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-16, hereto attached, filed herewith and made a part hereof, as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or any one for him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 7 South, Range 2 West, Sections 19-21-30.  
Roll, A-14861.

Allottee, Emma Hallecom, nee Fowler; Sex F; Blood 1-8; Age 7.

Description, Section 19 SE $\frac{1}{4}$  SW $\frac{1}{4}$ . Tax Rolls, 1909 tax, \$11.60, 1-14-10; 1910 tax; 1911 tax, \$4.62, 12-29-11; Section 21 SW $\frac{1}{4}$  SW $\frac{1}{4}$  SW $\frac{1}{4}$ ; 1909 tax, \$2.90, 1-14-10; 1910 tax, \$1.27, 12-29-10; 1911 tax \$8.72, 2-29-11.

Section 30. N $\frac{1}{2}$  NE $\frac{1}{4}$  NW $\frac{1}{4}$  N 18.35 A. of Lot 1. 1909 tax, \$11.02, 1-14-10; 1910 tax, \$4.87, 12-19-10. Township 7 South, Range 3 West, Section 25; W $\frac{1}{2}$  NW $\frac{1}{4}$  E $\frac{1}{2}$  E $\frac{1}{2}$  NW $\frac{1}{4}$  E $\frac{1}{2}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$  E 20 A lot 1 W $\frac{1}{2}$  NW $\frac{1}{4}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$ . 1909 tax, \$55.03, 1-14-10; 1910 tax, \$29.01, 12-19-10; 1911 tax. \$24.20, 12-29-11. Total, \$145.24.

State of Oklahoma, Love County.

Personally appeared before me the undersigned authority, one Emma Hallecom, nee Fowler, who being first duly sworn states that she is a citizen of the Choctaw Nation of the Five Civilized Tribes in fact, and as shown by the above copy of the roll of citizenship of said tribe referred to and made a part of this affidavit and who paid under a mistake of law and fact, taxes, penalties and costs, on said allotment, as shown by the tax rolls of said Love County, Oklahoma, a true copy and description as to said allotment being set forth heretofore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized acts and threats of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the Assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty

and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax, did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to anyone for him.

Wherefore affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Emma Hallecom, nee Fowler.

Subscribed and sworn to before me this 21st day of August, 1915.

R. A. Hall, Notary Public.

My commission expires January 28, 1919.

#### ASSIGNMENT OF CLAIM.

I, Emma Hallecom, nee Fowler, allottee, as shown above, hereby assign and transfer the above demand and chose in action, due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and cost collected herein, or that proportion of the tax, penalty and costs so collected, and shall retain all the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within

that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 21st day of August, 1915.

Emma Hallcom, nee Fowler.

“Exhibit L-16.”

C. A. Greenlees.

For his 17th cause of action herein plaintiff refers to paragraphs, one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$62.18 so paid defendant on the 9th day of July, 1910, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$10.52.

The total sum herein demanded by plaintiff being \$62.18 principal and \$10.52 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-17 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or any one for him, and that said demand is just, true, due and wholly unpaid.

#### AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 7 South, Range 3 West, Sections 10-11-12.  
Roll A-14624.

Allottee, Ruthie Ruer Rubottom; Sex F; Blood 1-16.  
Age 15.

Description. Section 10. E $\frac{1}{2}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$ . Tax Roll, 1909 tax \$17.36, 7-9-10. Section 11. S $\frac{1}{2}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$ . 1909 tax \$39.68, 7-9-10. Section 12, E $\frac{1}{2}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$ ; 1909 tax \$5.14, 7-9-10. Total \$62.18.



State of Oklahoma, Love County.

Personally appeared before me the undersigned authority, one Ruthie Ruer Hogue, nee Rubottom, who being first duly sworn, states that she is a citizen of the Choctaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotments, as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts of the Assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to any one for him.

Wherefore affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Ruthie Ruer Hogue, nee Rubottom.

Subscribed and sworn to before me this 19th day of August, 1915.

(Seal)

R. A. Hall, Notary Public.

My commission expires January 28, 1919.

ASSIGNMENT OF CLAIM.

I, Ruthie Ruer Hogue, nee Rubottom, allottee, as shown above hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees, that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and cost so collected, and shall retain all of the remainder of the sums collected and accruing which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 19th day of August, 1915.

Ruthie Ruer Hogue, nee Rubottom.

“Exhibit L-47.” C. A. Greenlees.

For his 18th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length, and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$192.19 so paid defendant on the 3rd day of November, 1911, with interest thereon from said date at 6 per cent per

annum until paid, being the sum of \$45.16; and the further sum of \$94.87 so paid defendant on the 17th day of January, 1911, with interest thereon at 6 per cent per annum from said date in the sum of \$26.85; and in the further sum of \$102.60 so paid defendant on the 20th day of January, 1912, with interest thereon at 6 per cent per annum from date in the sum of \$22.78.

The total sum herein demanded by plaintiff being \$389.66 principal and \$94.97 interest thereon.

By reference plaintiff pleads all the matters alleged and set forth in Exhibit No. L-18 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or any one for him, and that said demand is just, true, due and wholly unpaid.

#### AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 7 South, Range 3 West, Sections 1-12-13.  
Roll A-14625.

Allottee, Minnie Viola Rubottom; Sex F; Blood 1-16;  
Age 9.

Description. Section 1, S $\frac{1}{2}$  S $\frac{1}{2}$  SE $\frac{1}{4}$  NE $\frac{1}{4}$  NE $\frac{1}{2}$  SE $\frac{1}{4}$ . Tax roll, 1909 tax \$21.35, 11-3-11; 1910 tax \$8.91, 1-7-11; 1911 tax \$5.84, 1-22-12. Section 12, E $\frac{1}{2}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$  S $\frac{1}{2}$  SE $\frac{1}{4}$  N $\frac{1}{2}$  SE $\frac{1}{4}$  NE $\frac{1}{4}$ ; 1909 tax \$145.18, 11-3-11; 1910 tax \$64.13, 1-17-11; 1911 tax \$80.71, 1-22-12. Section 13, W $\frac{1}{2}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$  NE $\frac{1}{4}$  NW $\frac{1}{4}$ ; 1909 tax \$25.66, 11-3-11; 1910 tax \$21.83, 1-17-11; 1911 tax \$16.05, 1-20-12. Total \$389.66.

State of Oklahoma, Love County.

Personally appeared before me the undersigned authority, one Minnie Viola Hogue, nee Rubottom, who being first duly sworn, states that she is a citizen of the Choctaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe

referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth as hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid, the respective sums so paid, by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the Assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indians lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law and that said lands were in fact non-taxable for said years, and that the same so collected have not been returned to allottee, nor to any one for him.

Wherefore affiant prays the Honorable Board of of County Commissioners of Love County, Oklahoma, to refund said tax, and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Minnie Viola Hogue, nee Rubottom.

Subscribed and sworn to before me this 19th day of August, 1915.

(Seal)

R. A. Hall, Notary Public.

My commission expires January 28, 1919.

#### ASSIGNMENT OF CLAIM.

I, Minnie Viola Hogue, nee Rubottom, allottee, as above shown, hereby assign and transfer the above described and chose in action due claimant from Love County, Oklahoma,

to C. A. Greenlees, who is hereby holder of the legal title to same; and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and cost so collected, and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 19th day of August, 1915.

Minnie Viola Hogue, nee Rubottom.

“Exhibit L-18.” C. A. Greenlees.

For his 19th cause of action herein plaintiff refers to paragraphs, one two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim as for money had and received and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$65.73 so paid defendant on the 23rd day of July, 1910, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$20.51; and the further sum of \$19.86 so paid defendant on the 15th day of January, 1912, with interest thereon at 6 per cent per annum from said date in the sum of \$6.53.

The total sum herein demanded by plaintiff being \$85.59 principal and \$27.04 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-19 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or any one for him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 8 South, Range 2 West, Sections 18-19.  
Roll B-956.

Allottee, Lydia M. Johnson; Sex F; Blood IW; Age 49.

Description. Sec. 18, S $\frac{1}{2}$  SE $\frac{1}{4}$ . Tax roll, 1908 tax \$19.86, 1-15-12; 1909 tax \$32.87, 7-25-10. Section 19. NE $\frac{1}{4}$  NE $\frac{1}{4}$  NE $\frac{1}{4}$  W $\frac{1}{2}$  NE $\frac{1}{4}$  NE $\frac{1}{4}$  NW $\frac{1}{4}$  NE $\frac{1}{4}$  NE $\frac{1}{4}$  NE $\frac{1}{4}$  NW $\frac{1}{4}$ , 1909 tax \$32.86, 7-23-10. Total \$85.59.

State of Oklahoma, Love County.

Personally appeared before me the undersigned authority, one Lydia M. Johnson, who being first duly sworn, states that she is a citizen of the Choctaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment, as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the Assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and

demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs, so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to any one for him.

Wherefore affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

L. M. Johnson.

Subscribed and sworn to before me this 23rd day of August, 1915.

(Seal)

Jas. A. Porter, Notary Public.

My commission expires May 16, 1917.

#### ASSIGNMENT OF CLAIM.

I, Lydia M. Johnson, allottee, as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and will incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and cost collected herein, or that proportion of the tax, penalty and cost so collected, and shall retain all of the remainder of the sums collected and accruing which shall be

his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 23rd day of August, 1915.

L. M. Johnson.

“Exhibit L-19.”

C. A. Greenlees.

For his 20th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$108.91 so paid defendant on the 3rd day of November, 1911, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$25.59; and the further sum of \$53.83 so paid defendant on the 4th day of November, 1911, with interest thereon at 6 per cent per annum from said date in the sum of \$12.55 and in the further sum of \$14.40 so paid defendant on the 18th day of November, 1911, with interest thereon at 6 per cent per annum from date in the sum of \$3.34; and in the further sum of \$39.61 so paid defendant on the 4th day of December, 1911, with interest thereon at 6 per cent per annum from said date, in the sum of \$9.11.

The total sum herein demanded by plaintiff being \$216.75 principal and \$50.59 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-20 hereto attached, filed herewith and made a part hereof, as though set forth herein at length, together with the verifications of said claim and the



assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or any one for him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 7 South, Range 1 West, Sections 17-20-21.  
Roll C-1421.

Allottee, Emma E. Hays, nee Ivy; Sex F; Blood  $\frac{1}{2}$ ;  
Age 29.

Description. Section 17, S $\frac{1}{2}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$  S $\frac{1}{2}$  SE $\frac{1}{4}$ . Tax roll, 1908 tax \$32.75, 11-3-11; 1909 tax \$34.60, 11-3-11; 1910 tax \$24.06, 11-4-11; 1911 tax \$26.74, 12-4-11. Section 20, NE $\frac{1}{4}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$  NE $\frac{1}{4}$ , 1909 tax \$18.15, 11-3-11; 1910 tax \$12.38, 11-4-11; 1911 tax \$12.87, 12-4-11. Section 21 N $\frac{1}{2}$  NE $\frac{1}{4}$  NW $\frac{1}{4}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$  NW $\frac{1}{4}$  NW $\frac{1}{4}$ ; 1909 tax \$23.41, 11-3-11; 1910 tax \$17.39, 11-4-11; 1911 tax \$14.40, 11-13-11. Total \$216.75.

Personally appeared before me the undersigned authority one Emma E. Hays, nee Ivy, who being first duly sworn states that she is a citizen of the Chickasaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment, as shown by the Tax Rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth herein before, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging

and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. The said payment was without authority of law, and that said lands were in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to anyone for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Emma E. Ivy.

Subscribed and sworn to before me this 14th day of August, 1915.

(Seal)

D. G. Culwell, Notary Public.

My commission expires August 8, 1917.

#### ASSIGNMENT OF CLAIM.

I, Emma E. Hays, nee Ivy, allottee, as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and cost so collected, and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures

herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within the period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 14th day of August, 1915.

Emma E. Ivy.

“Exhibit L-20.”

C. A. Greenlees.

For his twenty-first cause of action plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$202.97 so paid defendant on the 30th day of January, 1912, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$45.57.

The total sum herein demanded by plaintiff being \$202.97 principal and \$45.57 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-21 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or any one for him, and that said demand is just, true, due and wholly unpaid.

#### AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 7 South, Range 1 West, Section 32.  
Roll C-1747.

Allottee Wessie Jackson, nee Burney; Sex F; Blood 3-32; Age 10.

Description, N $\frac{1}{2}$  NE $\frac{1}{4}$  N $\frac{1}{2}$  SE $\frac{1}{4}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$   
S $\frac{1}{2}$  SE $\frac{1}{4}$  NE $\frac{1}{4}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$ . Tax roll, 1909 tax \$89.25;  
1910 tax, \$51.99; 1911 tax, \$61.73. Total \$202.97.

State of Oklahoma, Love County.

Personally appeared before me the undersigned authority, one Wessie Jackson, nee Burney, who being first duly sworn, states that she is a citizen of the Chickasaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment, as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma and the unlawful and unauthorized acts and threats of the Assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and the threatening to sell, in advertising for sale and offering to sell said lands, and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee nor to anyone for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees who is trustee for affiant to receive same.

Wessie Jackson, nee Burney.

Subscribed and sworn to before me this 14th day of August, 1915.

(Seal)

T. M. Scott, Notary Public.

My commission expires March 24, 1917.

#### ASSIGNMENT OF CLAIM.

I, Wessie Jackson, nee Burney, allottee, as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necesasry to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 14th day of August, 1915.

Wessie Jackson, nee Burney.

"Exhibit L-21."

C. A. Greenlees.

For his 22nd cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim, and for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$33.06 so paid defendant on the 24th day of December, 1910, with interest thereon from said date at 6 per cent per annum, until paid, being the sum of \$9.49; and the further sum of \$47.76 so paid defendant on the 13th day of June, 1911, with interest thereon at 6 per cent per annum from said date in the sum of \$12.55; and in the further sum of \$22.43 so paid defendant on the 24th day of November, 1911, with interest thereon at 6 per cent per annum from said date in the sum of \$7.40.

The total sum herein demanded by plaintiff being \$103.25 principal and \$29.44 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-22 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or any one for him, and that said demand is just, true, due and wholly unpaid.

#### AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 7 South, Range 1 West, Sections 9-16-17-21.  
Roll C-1826.

Aliottee, Ada Clifford Ball; Sex F; Blood 1-8; Age 13.  
Description, Section 9, SW $\frac{1}{4}$  SW $\frac{1}{4}$  SW $\frac{1}{4}$ . Tax roll, 1909 tax \$1.66, 12-24-10. Section 16, SW $\frac{1}{4}$  NW $\frac{1}{4}$  NW $\frac{1}{4}$  N $\frac{1}{2}$  NW $\frac{1}{4}$  NW $\frac{1}{4}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$  NW $\frac{1}{4}$  NE $\frac{1}{4}$  NW $\frac{1}{4}$ ; 1909 tax \$13.22, 12-24-10; 1910 tax \$30.36, 6-13-11; 1911 tax \$7.20, 11-24-11. Section 17, NE $\frac{1}{4}$  NE $\frac{1}{4}$  E $\frac{1}{2}$  NW $\frac{1}{4}$  NE $\frac{1}{4}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$  N $\frac{1}{2}$  SE $\frac{1}{4}$  NE $\frac{1}{4}$ ; 1909 tax \$14.48, 12-24-10; 1910 tax \$22.91, 6-13-11; 1911 tax \$10.54, 11-24-11. Section 21, S $\frac{1}{2}$  SW $\frac{1}{4}$  SW $\frac{1}{4}$ ; 1909 tax \$3.30, 12-24-11; 1910 tax \$4.49, 6-15-11; 1911 tax \$1.55, 11-24-11. Township 7 South, Range 2 East, Section 5.

Description, SE 10 A. lot. Tax roll, 1909 tax \$1.49, 11-24-11; 1910 tax \$1.28, 11-24-11; 1911 tax .37, 11-24-11. Total \$103.25.

State of Oklahoma, Love County.

Personally appeared before me the undersigned authority, one Ada Clifford Kirkpatrick, nee Ball, who being first duly sworn, states that she is a citizen of the Chickasaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the Assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax, did pay the tax, penalty and costs so assessed. That said payment was without authority of law and that said lands were, in fact, non-taxable for said years, and that sums so collected have not been returned to allottee, nor to any one for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Ada Clifford Kirkpatrick, nee Ball.

Subscribed and sworn to before me this 27th day of August, 1915.

F. T. Foley,  
Notary Public, in and for El Paso County, Texas.

ASSIGNMENT OF CLAIM.

I, Ada Clifford Kirkpatrick, nee Ball, allottee, as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and costs so collected, and shall retain all of the remainder of the sums collected and accruing which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant. This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of that contract are hereby accepted by the said C. A. Greenlees.

Dated this 27th day of August, 1915.

Ada Clifford Kirkpatrick, nee Ball.  
"Exhibit L-22." C. A. Greenlees.

For his 23rd cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:



\$67.16 so paid defendant on the 29th day of October, 1909, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$23.91, and the further sum of \$68.57 so paid defendant on the 6th day of January, 1911, with interest thereon at 6 per cent per annum from said date in the sum of \$16.54; and in the further sum of \$32.89 so paid defendant on the 28th day of September, 1911, with interest thereon at 6 per cent per annum from date in the sum of \$8.33; and in the further sum of \$85.71 so paid defendant on the 18th day of December, 1911, with interest thereon at 6 per cent per annum from said date, in the sum of \$19.46. The total sum herein demanded by plaintiff being the sum of \$239.33 principal and \$68.24 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-23, hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof of plaintiff. Plaintiff further alleges that no part of said claim has been paid him or any one for him, that said demand is just, true, due and wholly unpaid.

#### AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 8 South, Range 2 East, Section 17-19-20.  
Roll B-296.

Allottee, Cynthia Lewis; Sex F; Age 33.

Description, Section 17, E $\frac{1}{2}$  SW $\frac{1}{4}$  SW $\frac{1}{4}$ ; W $\frac{1}{2}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$ . Tax roll, 1908 tax \$11.68, 9-28-11; 1909 tax \$9.90, 10-29-09; 1910 tax \$7.73, 1-6-11; 1911 tax \$13.43, 12-18-11. Section 19, E $\frac{1}{2}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$ ; SE $\frac{1}{4}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$ ; less 80 A. for G. C. & S. F. Ry, 1908 tax \$3.22, 4-28-11; 1909 tax \$5.78, 10-29-09; 1910 tax \$5.22, 1-6-11; 1911 tax \$8.09, 11-18-11. Section 20, S $\frac{1}{2}$  S $\frac{1}{2}$  NW $\frac{1}{4}$ ; N $\frac{1}{2}$  SW $\frac{1}{4}$ ; W $\frac{1}{2}$  NW $\frac{1}{4}$  SE $\frac{1}{4}$ ; SW $\frac{1}{4}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$  N $\frac{1}{2}$  NE $\frac{1}{4}$  NW $\frac{1}{4}$ ; NW $\frac{1}{4}$  NW $\frac{1}{4}$ ; N $\frac{1}{2}$  SW $\frac{1}{4}$  NW $\frac{1}{4}$ ; NW $\frac{1}{4}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$ . 1908 tax \$27.99, 9-28-11; 1909 tax \$51.48, 10-29-09; 1910 tax \$55.62, 1-6-11; 1911 tax \$64.19, 12-18-11. Total \$264.33.

State of Oklahoma, Love County.

Personally appeared before me the undersigned authority, one Cynthia Lewis, who being first duly sworn states that she is a citizen of the Choctaw Nation of the Five Civilized Tribes, in fact and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment as shown by the Tax Rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth heretofore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the Assessors and the County Treasurer of Love County, Oklahoma, in assessing, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling the Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax, did pay the tax, penalty and costs so assessed. That said payment was without authority of law and that said lands were, in fact, non-taxable for years, and that the sums so collected have not been returned to allottee, nor to any one for him.

Wherefore affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Cynthia Lewis.

Subscribed and sworn to before me this 9th day of September, 1915.

(Seal)

W. L. Richards, Court Clerk.

By Ona English, Deputy.

ASSIGNMENT OF CLAIM.

I, Cynthia Lewis, allottee, as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration for this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and cost so collected and shall retain all the remainder of the sums collected and accruing which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 9th day of September, 1915.

Cynthia Lewis.

"Exhibit L-23."

C. A. Greenlees.

For the 24th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff, who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$33.66 so paid defendant on the 29th day of October, 1909, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$11.98.

The total sum herein demanded by plaintiff being \$33.66, principal and \$11.98 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. 1-24, hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or anyone for him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 8 South, Range 2 East, Section 20-21.  
Roll A-9239.

Allottee, Overton A. Lewis. Sex M; Blood  $\frac{1}{2}$ ; Age 29.  
Description, Section 20,  $W\frac{1}{2}$  NE $\frac{1}{4}$  NE $\frac{1}{4}$ , E $\frac{1}{2}$  W $\frac{1}{2}$  NE $\frac{1}{4}$ , SE $\frac{1}{4}$ , NE $\frac{1}{4}$ , N $\frac{1}{2}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$ , SW $\frac{1}{4}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$ , E $\frac{1}{2}$  NW $\frac{1}{4}$  SE $\frac{1}{4}$ . Tax Roll, 1909 tax \$29.70, 10-29-09. Section 21, SW $\frac{1}{4}$  SW $\frac{1}{4}$  NW $\frac{1}{4}$ , NW $\frac{1}{4}$  NW $\frac{1}{4}$  SW $\frac{1}{4}$ , 1909 tax \$3.96, 1-29-09. Total \$33.66.

State of Oklahoma, Love County.

Personally appeared before me the undersigned authority, one Overton A. Lewis, who being first duly sworn, states that he is a citizen of the Choctaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the roll of citizenship of said tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment as shown by the rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the as-

sessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law and that said lands were in fact non-taxable for said years, and that the sums so collected have not been returned to allottee nor to anyone for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Overton A. Lewis.

Subscribed and sworn to before me this 9th day of Sept. 1915.

W. L. Richards, Court Clerk.

(Seal)

By Ona English, Deputy.

#### ASSIGNMENT OF CLAIM.

I, Overton A. Lewis, allottee, as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and cost so collected, and shall retain all of the remainder

of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 9 day of Sept., 1915.

Overton A. Lewis.

“Exhibit L-24.”

C. A. Greenlees.

For his 25th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff, who is the owner of this claim, as for money had and received, and which demand defendant hereinbefore promised to repay plaintiff, in the following sums, to-wit:

\$56.13 so paid defendant on the 23 day of December, 1910, with interest thereon, from said date at 6 per cent per annum until paid, being the sum of \$16.11; and the further sum of \$87.53 so paid defendant on the 27th day of November, 1911, with interest thereon at 6 per cent per annum from said date in the sum of \$20.22.

The total sum herein demanded by plaintiff being \$143.66 principal and \$36.33 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-25 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or anyone for him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 7 South, Range 1 West, Sections 32-33.  
Roll C-1644.

Allottee, Una Burney, nee Looney. Sex F; Blood 3-32;  
Age 17.

Description, Section 32, SE $\frac{1}{4}$  SE $\frac{1}{4}$ . Tax Roll, 1909  
tax \$17.60, 11-27-11; 1910 tax \$11.32, 12-23-10. Section  
33, N $\frac{1}{2}$  SW $\frac{1}{4}$  N $\frac{1}{2}$  SW $\frac{1}{4}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$  S $\frac{1}{2}$  SW $\frac{1}{4}$   
SW $\frac{1}{4}$ , 1909 tax \$69.93, 11-27-11; 1910 tax \$44.90, 12-23-10.  
Total \$143.66.

State of Oklahoma, Love County.

Personally appeared before me the undersigned authority, one Una Burney, nee Looney, who being first duly sworn, states that she is a citizen of the Chickasaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the roll of citizenship, of said tribes referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment, as shown by the tax rolls of said Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit, said allotment being by the allottee at the time said assessments are shown and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That

said payment was without authority of law and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to anyone for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Una Burney, nee Looney.

Subscribed and sworn to before me this 12 day of Aug., 1915.

(Seal)

T. M. Scott.

Notary Public.

My Commission expires Mar. 24, 1917.

#### ASSIGNMENT OF CLAIM.

I, Una Burney, nee Looney, allottee, as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer in the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and cost so collected and shall retain all of the remainder of the sums collected accruing, which shall be his compensation for services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon



within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 12th day of Aug. 1915.

Una Burney, nee Looney.

"Exhibit L-25."

C. A. Greenlees.

For his 26th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff who is the owner of the claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums:

\$71.84 so paid defendant on the 29th day of December, 1909, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$24.66.

The total sum herein demanded by plaintiff being \$71.84 principal and \$24.66 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-26 hereto attached, tied herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or anyone for him, and that said demand is just, due and wholly unpaid.

#### AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 7 South, Range 2 and 3 West, Sections 2-25.

Roll R-808.

Allottee, Martha May Lemon; Sex F; Blood  $\frac{1}{4}$ ;

Age 1.

Description, Twp. 7 S. R. 2 W. Sec. 21, SE $\frac{1}{4}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$  E $\frac{1}{2}$  SW $\frac{1}{4}$  SW $\frac{1}{4}$ . Tax Roll, 1909 tax \$49.44, 12-

29-09. Twp. 7 South, R 3 W Sec. 25, W $\frac{1}{2}$  E $\frac{1}{2}$  NW $\frac{1}{4}$   
NW $\frac{1}{4}$  NW $\frac{1}{4}$  W $\frac{1}{2}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$ , 1909 tax \$22.40, 12-29-09.  
Total \$71.84.

State of Oklahoma, Love County.

Personally appeared before me the undersigned authority, one Ida Lemon, mother of Martha Lemon, minor, who being first duly sworn, states that Martha May Lemon, a citizen of the Choctaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the roll of citizenship of said tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment, as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax, did pay the tax, penalty and costs so assessed. That said payment was without authority of law and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to anyone for him.

Wherefore affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom,

and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Ida Lemon,

Mother of Martha May Lemon.

Subscribed and sworn to before me this 21 day of August, 1915.

(Seal)

R. A. Hall,

Notary Public.

My commission expires Jan. 28, 1919.

#### ASSIGNMENT OF CLAIM.

I, Ida Lemon, mother of Martha May Lemon, minor, allottee, as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and cost so collected, and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 21 day of August, 1915.

Ida Lemon,

"Exhibit L-26."

C. A. Greenlees.

For his 27th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$63.55 so paid defendant on the 29th day of December, 1909, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$22.99; and the further sum of \$75.44 so paid defendant on the 2nd day of November, 1911, with interest thereon at 6 per cent per annum from said date in the sum of \$17.73; and in the further sum of \$56.59 so paid defendant on the 14th day of December, 1911, with interest thereon at 6 per cent per annum from date in the sum of \$12.90; and in the further sum of \$46.07, so paid defendant on the 27th day of November, 1911, with interest thereon at 6 per cent per annum from said date, in the sum of \$10.41.

The total sum herein demanded by plaintiff being \$241.65 principal and \$64.03 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. 1-27 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or anyone for him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 7 South, Range 2 West, Sections 20-29.  
Roll A-14860.

Allottee, Ida Lemon; Sex F; Blood  $\frac{1}{4}$ ; Age 23.

Description, Section 20, S $\frac{1}{2}$  S $\frac{1}{2}$ . Tax Roll, 1909 tax

\$31.78, 10-29-09; 1910 tax \$37.72, 11-2-11; 1911 tax 23.01, 12-29-11. Section 29, N $\frac{1}{2}$  N $\frac{1}{2}$ , 1908 tax \$56.59, 12-14-11; 1909 tax \$31.77, 12-29-09; 1910 tax \$37.72, 11-2-11; 1911 tax \$23.06, 12-27-11. Total \$241.65.

State of Oklahoma, Love County.

Personally appeared before me the undersigned authority one Ida Lemon, who being first duly sworn, states that she is a citizen of the Choctaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the roll of citizenship of said tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment, as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to anyone for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom

and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Ida Lemon.

Subscribed and sworn to before me this 21 day of August, 1915.

(Seal)

R. A. Hall.

My Commission expires 8th day of Jan. 1919.

ASSIGNMENT OF CLAIM.

I, Ida Lemon, allottee, as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and cost so collected, and shall retain all the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 21 day of August, 1915.

Ida Lemon.

“Exhibit L-27.”

C. A. Greenlees.

For his 28th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of

action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$43.91 so paid defendant on the 2nd day of January, 1911, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$13.51; and the further sum of \$25.93 so paid defendant on the 2nd day of October, 1911, with interest thereon at 6 per cent per annum from said date in the sum of \$6.22; and in the further sum of \$74.73 so paid defendant on the 2nd day of November, 1911, with interest thereon at 6 per cent per annum from date in the sum of \$17.56.

The total sum herein demanded by plaintiff being \$144.57 principal and \$37.29 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. 1-28 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim, and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or anyone for him, and that said demand is just, true, due and wholly unpaid.

#### AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 7 South, Range 3 West, Sections 12-13-24.  
Roll A-14620.

Allottee, Matilda E. Rubottom; Sex F; Blood  $\frac{1}{2}$ ;  
Age 39.

Description, Section 12, E $\frac{1}{2}$  NW $\frac{1}{4}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$ . Tax Roll, 1908 tax .66, 10-2-11; 1909 tax \$1.27, 11-2-11; 1910 tax .64, 10-2-11. Section 13, SW $\frac{1}{4}$  SW $\frac{1}{4}$  W $\frac{1}{2}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$  E $\frac{1}{2}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$  S $\frac{1}{2}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$ , 1908 tax \$25.27, 10-2-11; 1909 tax \$43.06, 11-2-11; 1910 tax \$28.00, 1-2-11. Section 24, SW $\frac{1}{4}$  NW $\frac{1}{4}$  N $\frac{1}{2}$  NW $\frac{1}{4}$ , 1909 tax \$30.40, 11-2-11; 1910 tax \$15.27, 1-2-11. Total \$144.57.

State of Oklahoma, Love County.

Personally appeared before me the undersigned authority, one Matilda E. Langley, nee Rubottom, who being first duly sworn, states that she is a citizen of the Choctaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown and paid the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax, did pay the tax, penalty and costs so assessed. That said payment was without authority of law and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to anyone for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Matilda E. Langley, nee Rubottom.

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Subscribed and sworn to before me this 7th day of  
Sept. 1915.

R. A. Hall,  
Notary Public.

(Seal)

My Com. Expires Jan. 28, 1919.

ASSIGNMENT OF CLAIM.

I, Matilda E. Langley, nee Rubottom, allottee, as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and cost so collected, and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 7 day of Sept. 1915.

Matilda E. Langley, nee Rubottom.  
"Exhibit L-28." C. A. Greenlees.

For his 29th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plain-

tiff who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$17.88 so paid defendant on the 9th day of July, 1910, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$5.51; and the further sum of \$58.24 so paid defendant on the 17th day of October, 1910, with interest thereon at 6 per cent per annum from said date in the sum of \$17.42; and in the further sum of \$67.97 so paid defendant on the 28th day of March, 1911; with interest thereon at 6 per cent per annum from date in the sum of \$18.62; and in further sum of \$43.74 so paid defendant on the 31 day of August, 1911, with interest thereon at 6 per cent per annum from said date, in the sum of \$12.95. The total sum herein demanded by plaintiff being \$187.83 principal, and \$54.50 interest thereon.

By reference plaintiff pleads all the matters alleged and set forth in Exhibit No. L-29 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid to him or any one for him, and that said demand is just, true, due, and wholly unpaid.

#### AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 8 South, Range 3 East, Sections 5-6-7.

Roll D-234.

Allottees Thomas M. Randolph; Sex M; Blood IW;  
Age 29.

Description, Section 5. S $\frac{1}{2}$  NW $\frac{1}{4}$  SE $\frac{1}{4}$  W $\frac{1}{2}$  SW $\frac{1}{4}$  SW $\frac{1}{4}$ . Tax roll, 1909 tax \$17.88, 2-9-11; 1910 tax \$20.96, 3-18-11. Section 6, E $\frac{1}{2}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$  S $\frac{1}{2}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$  NE $\frac{1}{4}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$  W $\frac{1}{2}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$  SE 10 A. Lot 4; 1908 tax \$33.08, 8-31-11; 1909 tax \$52.34, 10-17-11; 1910 tax \$41.92, 3-28-11. Section 7, N 19.86 A. of Lot 1; 1908

tax \$10.66, 6-31-11; 1909 tax \$5.90, 10-17-11; 1910 tax \$5.00, 3-28-11. Total \$187.83.

State of Oklahoma, Love County.

Personally appeared before me the undersigned authority, one Thomas M. Randolph, who being first duly sworn states that he is a citizen of the Chickasaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and paid under a mistake of law and fact, taxes, penalties and costs on said allotment, as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma and the unlawful and unauthorized acts and threats of the Assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to any one for him.

Wherefore affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom,

and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Thomas M. Randolph.

Subscribed and sworn to before me this 2nd day of August, 1915.

(Seal)

Dillie Wicker, Notary Public.

My commission expires March 10, 1919.

#### ASSIGNMENT OF CLAIM.

I, Thomas M. Randolph, allottee, as shown above hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and cost so collected, and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 3rd day of August, 1915.

Thomas M. Randolph.

“Exhibit L-29.”

C. A. Greenlees.

For his 30th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of ac-

tion as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$53.64 so paid defendant on the 9th day of July, 1910, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$16.84; and in the further sum of \$84.84 so paid defendant on the 28th of March, 1911, with interest thereon at 6 per cent per annum from said date in the sum of \$22.72.

The total sum herein demanded by plaintiff being \$137.48 principal and \$39.56 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-30 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or any one for him, and that said demand is just, true, due and wholly unpaid.

#### AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 8 South, Range 3 East, Sections 5-8.  
Roll C-3960.

Allottee, Nellie P. Randolph; Blood 3-8; Age 26.

Description, Section 5.  $W\frac{1}{2}$   $SE\frac{1}{4}$   $SW\frac{1}{4}$   $E\frac{1}{2}$   $SW\frac{1}{4}$   $SW\frac{1}{4}$ . Tax roll, 1910 tax \$20.96, 3-28-11; Section 8,  $SW\frac{1}{4}$   $NE\frac{1}{4}$   $NW\frac{1}{4}$   $W\frac{1}{2}$   $SE\frac{1}{4}$   $NW\frac{1}{4}$   $SW\frac{1}{4}$   $NW\frac{1}{4}$   $SE\frac{1}{4}$   $NW\frac{1}{4}$   $NW\frac{1}{4}$   $W\frac{1}{2}$   $NW\frac{1}{4}$   $NW\frac{1}{4}$   $NE\frac{1}{4}$   $NW\frac{1}{4}$   $NW\frac{1}{4}$   $NW\frac{1}{4}$   $NE\frac{1}{4}$   $NW\frac{1}{4}$ ; 1909 tax \$53.64, 7-9-10; 1910 tax \$62.88, 3-28-11. Total \$137.48.

State of Oklahoma, Love County.

Personally appeared before me the undersigned authority, one Nellie P. Randolph, who being first duly sworn

states that she is a citizen of the Chickasaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment, as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid the respective sums so paid by the allottee, being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the Assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to any one for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax, and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Nellie P. Randolph.

Subscribed and sworn to before me this 3rd day of August, 1915.

(Seal)

Dillie Wicker, Notary Public.

My commission expires March 10, 1919.

ASSIGNMENT OF CLAIM.

I, Nellie P. Randolph, allottee, as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement thereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and cost so collected, and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from the date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 3rd day of August, 1915.

Nellie P. Randolph.

“Exhibit L-30.”

C. A. Greenlees.

For his 31st cause of action herein plaintiff refers to paragraphs one, two and three hereof, and plead each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$56.08 so paid defendant on the 24th day of March, 1910, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$18.62; and the

further sum of \$50.00 so paid defendant on the 9th day of February, 1911, with interest thereon at 6 per cent per annum from said date in the sum of \$13.21; and in the further sum of \$12.03 so paid defendant on the 11th day of February, 1911, with interest thereon at 6 per cent per annum from said date in the sum of \$2.83; and in the further sum of \$67.55 so paid defendant on the 16th day of March, 1912, with interest thereon at 6 per cent per annum from said date in the sum of \$14.39.

The total sum herein demanded by plaintiff being \$186.56 principal and \$49.05 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-31 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or any one for him, and that said demand is just, true, due and wholly unpaid.

#### AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 7 South, Range 3 West, Sections 13-23.

Roll A-14621.

Allottee, Mary Frances Sorrells, Sex F; Blood 1-16; Age 22.

Description. Section 13, E $\frac{1}{2}$  NW $\frac{1}{4}$  SW $\frac{1}{4}$ . Tax roll, 1909 tax \$5.08, 3-24-11; 1910 tax \$12.03, 11-24-11; 1911 tax \$2.02, 3-16-11. Section 23, SW $\frac{1}{4}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$  S $\frac{1}{2}$  NE $\frac{1}{4}$  NW $\frac{1}{4}$  NE $\frac{1}{4}$  NW $\frac{1}{4}$  NW $\frac{1}{4}$  NW $\frac{1}{4}$  NE $\frac{1}{4}$  N $\frac{1}{2}$  NE $\frac{1}{4}$  NE $\frac{1}{4}$ ; 1909 tax \$51.00, 3-24-10; 1910 tax \$50.90, 2-9-11; 1911 tax \$65.53, 3-16-11. Total \$186.56.

State of Oklahoma, Love County.

Personally appeared before me the undersigned authority, one Mary Frances Furrh, nee Sorrells, who being first duly sworn states that she is a citizen of the Choctaw Nation of the Five Civilized Tribes, in fact, and as shown



by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment, as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the Assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax, did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to any one for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Granlees, who is trustee for affiant to receive same.

Mary Frances Furrh, nee Sorrells.

Subscribed and sworn to before me this 9th day of August, 1915.

(Seal)

R. A. Hall, Notary Public.

My commission expires January 28, 1919.

#### ASSIGNMENT OF CLAIM.

I, Mary Frances Furrh, nee Sorrells, allottee, as shown

above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected and accruing, which shall be his compensation for his services herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 19th day of August, 1915.

Mary Frances Furrh, nee Sorrells.

"Exhibit L-31." C. A. Greenlees.

For his 32nd cause of action hereby plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$34.72 so paid defendant on the 24th day of March, 1910, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$9.44.

The total sum herein demanded by plaintiff being \$34.72 principal and \$9.44 interest thereon.

By reference, plaintiff pleads all the matters alleged

and set forth in Exhibit No. 1-32 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or any one for him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 7 South, Range 3 West, Section 14.  
Roll A-14628.

Allottee, Ethel Lee Sorrells; Sex F; Blood 1-32; Age 2.

Description, SW<sup>1</sup>/<sub>4</sub> SW<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub> NW<sup>1</sup>/<sub>4</sub> SE<sup>1</sup>/<sub>4</sub> SE<sup>1</sup>/<sub>4</sub>  
NE<sup>1</sup>/<sub>4</sub> SW<sup>1</sup>/<sub>4</sub> W<sup>1</sup>/<sub>2</sub> NW<sup>1</sup>/<sub>4</sub> SE<sup>1</sup>/<sub>4</sub> S<sup>1</sup>/<sub>2</sub> S<sup>1</sup>/<sub>2</sub> SE<sup>1</sup>/<sub>4</sub> E<sup>1</sup>/<sub>2</sub> NW<sup>1</sup>/<sub>4</sub>  
SE<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub> SW<sup>1</sup>/<sub>4</sub> SE<sup>1</sup>/<sub>4</sub>. Tax roll, 1909 tax \$34.72, 3-24-10. Total \$34.72.

State of Oklahoma, Love County.

Personally appeared before me the undersigned authority, one John Furrh, Guardian of Ethel Lee Sorrells, who being first duly sworn, states that she is a citizen of the Choctaw Nation of the Five Civilized Tribes in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the Assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging, and demanding said tax, and in threatening to sell, in advertising for sale and

offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to any one for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

John Furrh, Guardian.

Subscribed and sworn to before me this 19th day of August, 1915.

(Seal)

R. A. Hall, Notary Public.

My commission expires January 28, 1919.

#### ASSIGNMENT OF CLAIM.

I, John Furrh, Guardian allottee above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and cost so collected, and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein.

In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 19th day of August, 1915.

John Furrh, Guardian.

“Exhibit L-32.”

C. A. Greenlees.

For his 33rd cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$23.81 so paid defendant on the 24th day of March, 1910, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$7.80.

The total sum herein demanded by plaintiff being \$23.81 principal and \$7.80 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-33, hereto attached, filed and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or any one for him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 6 South, Range 2 West, Section 32.

Roll R-535.

Allottee Claudie Edward Sorrells; Sex M; Blood 1-32;

Age 1.

Description,  $W\frac{1}{2}$   $NE\frac{1}{4}$   $SE\frac{1}{4}$   $SE\frac{1}{4}$   $SE\frac{1}{4}$   $E\frac{1}{2}$   $W\frac{1}{2}$   $SW\frac{1}{4}$ . Tax roll, 1909 tax \$18.32, 3-24-10. Township 7 South, Range 3 West, Section 14,  $SE\frac{1}{4}$   $SE\frac{1}{4}$   $NW\frac{1}{4}$   $SW\frac{1}{4}$   $SW\frac{1}{4}$   $NE\frac{1}{4}$   $SW\frac{1}{4}$   $NW\frac{1}{4}$   $NE\frac{1}{4}$ ; 1909 tax \$5.49, 3-24-10. Total \$23.81.

State of Oklahoma, Love County.

Personally appeared before me the undersigned authority one John Furrh, Guardian of Claudie Edward Sorrells, who being first duly sworn, states that he is a citizen of the Choctaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit said allotment being owned by the allottee at the time said assessments are shown and paid the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized treats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the Assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee nor to any one for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to re-

fund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

John Furrh, Guardian.

Subscribed and sworn to before me this 19th day of August, 1915.

(Seal)

R. A. Hall, Notary Public.

My commission expires January 28, 1919.

#### ASSIGNMENT OF CLAIM.

I, John Furrh, Guardian of Claudie E. Sorrells, allottee, as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and cost so collected, and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 19th day of August, 1915.

John Furrh, Guardian.

"Exhibit L-33."

C. A. Greenlees.

For his 34th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and

every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$21.03 so paid defendant on the 26th day of October, 1910, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$6.22; and the further sum of \$26.92 so paid defendant on the 29th day of December, 1911, with interest thereon at 6 per cent per annum from said date in the sum of \$6.08; and in the further sum of \$22.90 so paid defendant on the 9th day of May, 1912, with interest thereon at 6 per cent per annum from date in the sum of \$4.67.

The total sum herein demanded by plaintiff being \$70.85 principal and \$16.97 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-34 hereto attached, filed herewith and made a part hereof, as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or any one for him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 7 South, Range 1 West, Section 2.

Roll C-1513.

Allottee, Dory Souise; Sex F; Blood  $1\frac{1}{2}$ ; Age 1.

Description, N $\frac{1}{2}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$  NE $\frac{1}{4}$  NW $\frac{1}{4}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$ . Tax roll, 1909 tax \$21.03, 10-26-10; 1910 tax \$26.92, 12-26-11; 1911 tax \$22.90, 5-9-12. Total \$70.85.

State of Oklahoma, Love County.

Personally appeared before me the undersigned au-



thority one H. W. McGill, Guardian of Dory Souse, who being first duly sworn states that Dory Souse is a citizen of the Chickasaw Nation of the Five Civilized Tribes in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the Assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, charging and demanding said tax and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to any one for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax, and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

H. W. McGill, Guardian.

Subscribed and sworn to before me this 9th day of September, 1915.

(Seal)

W. L. Richards, Court Clerk.

By Ona English, Deputy.

ASSIGNMENT OF CLAIM.

I, H. W. McGill, Guardian of allottee, as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and cost so collected, and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 9th day of September, 1915.

H. W. McGill, Guardian.  
"Exhibit L-34." C. A. Greenlees.

For his 35th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without his alleges and states that the defendant is indebted to plaintiff who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$63.98 so paid defendant on the 4th day of March, 1911,

with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$17.60.

The total sum herein demanded by plaintiff being \$63.98 principal and \$17.60 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-35, hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof. Plaintiff further alleges that no part of said claim has been paid him or any one for him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 9 South, Range 2 East, Sections 20-29.  
Roll A-14226.

Allottee Juanita Taylor; Sex F; Blood 1-16; Age 11.

Description. Section 20, S $\frac{1}{2}$  S $\frac{1}{2}$  SW $\frac{1}{4}$ . Tax roll, 1909 tax \$8.20, 3-4-11; 1910 tax \$6.18, 3-4-11. Section 29, NE $\frac{1}{4}$  NW $\frac{1}{4}$  N $\frac{1}{2}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$  W $\frac{1}{2}$  NW $\frac{1}{4}$ ; 1909 tax \$30.42, 3-4-11; 1910 tax \$19.18, 3-4-11. Total \$63.98.  
State of Oklahoma, Love County.

Personally appeared before me the undersigned authority, one Juanita Kershaw, nee Taylor, who being first duly sworn states that she is a citizen of the Choctaw Nation of the Five Civilized Tribes in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe, referred to and made a part of this affidavit and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and un-

authorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the Assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to any one for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Juanita Kershaw, nee Taylor.

Subscribed and sworn to before me this 1st day of September, 1915.

(Seal)

M. L. Wineblood, Notary Public.

My commission expires April 17, 1918.

#### ASSIGNMENT OF CLAIM.

I, Juanita Kershaw, nee Taylor, allottee, as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recovery said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the

tax, penalty and costs collected herein, or that proportion of the tax, penalty and cost so collected, and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 1st day of September, 1915.

Juanita Kershaw, nee Taylor.

"Exhibit L-35."

C. A. Greenlees.

For his 36th cause of action here plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that he defendant is indebted to plaintiff who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$26.65 so paid defendant on the 24th day of November, 1909, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$9.36; and the further sum of \$36.38 so paid defendant on the 24th day of October, 1911, with interest thereon at 6 per cent per annum from said date in the sum of \$8.62.

The total sum herein demanded by plaintiff being \$62.93 principal and \$17.98 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-36 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or any

one for him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 9 South, Range 2 East, Sections 16-20-28-33.  
Roll B-495.

Allottee, Joe N. Taylor; Sex M; Blood IW; Age 36.

Description. Section 16, SW $\frac{1}{4}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$  W $\frac{1}{2}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$ . Tax roll, 1909 tax \$9.66, 10-24-11; 1910 tax \$5.34, 10-24-11. Section 20, NE $\frac{1}{4}$  NE $\frac{1}{4}$  NE $\frac{1}{4}$  S $\frac{1}{2}$  NE $\frac{1}{4}$  NE $\frac{1}{4}$  E $\frac{1}{2}$  SE $\frac{1}{4}$  NE $\frac{1}{4}$ ; 1909 tax \$10.25, 11-24-09. Section 28, S $\frac{1}{2}$  NE $\frac{1}{4}$ ; 1909 tax \$16.40, 11-24-09. Section 33, N $\frac{1}{2}$  NW $\frac{1}{4}$  NE $\frac{1}{4}$  NE $\frac{1}{4}$  NE $\frac{1}{4}$  NW $\frac{1}{4}$ ; 1909 tax \$10.30, 10-24-11; 1910 tax \$6.77, 10-24-11; 1911 tax \$4.21, 10-24-11. Total \$62.93.

State of Oklahoma, Love County.

Personally appeared before me the undersigned authority one Joe N. Taylor, who being first duly sworn states that he is a citizen of the Choctaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the Assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty

and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for years, and that the sums so collected have not been returned to allottee, nor to any one for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Joe N. Taylor.

Subscribed and sworn to before me this 1st day of September, 1915.

(Seal)

M. L. Wineblood, Notary Public

My commission expires April 17, 1918.

#### ASSIGNMENT OF CLAIM.

I, Joe N. Taylor, allottee as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and cost so collected, and shall retain all of the remainder of the sums collected and accruing which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from

date hereof unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 1st day of September, 1915.

Joe N. Taylor.

“Exhibit L-36.”

C. A. Greenlees.

For his 37th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$57.57 so paid defendant on the 24th day of January, 1910, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$19.69.

The total sum herein demanded by plaintiff being \$57.57 principal and \$19.69 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-37 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or any one for him, and that said demand is just, true, due and wholly unpaid.

#### AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 8 South, Range 2 West, Sections 8-17.

Roll A-15554.

Allottee Robert E. L. Thompson; Sex M; Blood 1-8;

Age 31.

Description. Section 8, SW $\frac{1}{4}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$  NW $\frac{1}{4}$  SE $\frac{1}{4}$  less 5 A. for Leon; E $\frac{1}{2}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$  SE $\frac{1}{4}$  less 5 A for Leon. Tax roll, 1909 tax \$37.48, 1-24-10. Section



17, NW<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub> S<sup>1</sup>/<sub>2</sub> NE<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub> E<sup>1</sup>/<sub>2</sub> NE<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub>  
NW<sup>1</sup>/<sub>4</sub> NW<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub>; 1909 tax \$20.09, 1-  
24-10. Total \$57.57.

State of Oklahoma, Love County.

Personally appeared before me the undersigned authority one Robert E. L. Thompson, who being first duly sworn states that he is a citizen of the Choctaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment, as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment be- and set forth hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and unlawful and unauthorized acts and threats of the Assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell lands, and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to any one for him.

Whereas, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Robert E. L. Thompson.

Subscribed and sworn to before me this 21st day of August, 1915.

(Seal)

Jas. A. Porter, Notary Public.

My commission expires May 16, 1917.

ASSIGNMENT OF CLAIM.

I, Robert E. L. Thompson, allottee, as shown above hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and cost so collected, and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 21 day of August, 1915.

Robert E. L. Thompson.

“Exhibit L-37.”

C. A. Greenlees.

For his 38th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim, as for money had and re-

ceived, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$62.17 so paid defendant on the 27th day of January, 1911, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$17.47; and the further sum of \$31.81 so paid defendant on the 24th day of February, 1911, with interest thereon at 6 per cent per annum from said date in the sum of \$8.81; and the further sum of \$65.86 so paid defendant on the 30th day of September, 1911, with interest thereon at 6 per cent per annum from date in the sum of \$15.87; and in the further sum of \$20.69 so paid defendant on the 30th day of December, 1911, with interest thereon at 6 per cent per annum from said date in the sum of \$4.78.

The total sum herein demanded by plaintiff being \$180.53 principal and \$46.93 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. 1-38 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim, and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or anyone for him, and that said demand is just, true, due and wholly unpaid.

#### AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 7 South, Range 2 West, Section 26.

Roll B-1279.

Allottee, Clary May Thompson; Sex F; Blood 1 W;  
Age 32.

Description, SW $\frac{1}{4}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$ . Tax Roll, 1910 tax \$1.78, 10-26-11. Township 8 South, Range 2 West, Sections 9 and 16. Section 9, W $\frac{1}{2}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$  W $\frac{1}{2}$  SW $\frac{1}{4}$ , 1909 tax \$30.36, 1-27-11; 1910 tax \$31.81, 1-27-11. Section 16, N $\frac{1}{2}$  NW $\frac{1}{4}$  N $\frac{1}{2}$  NE $\frac{1}{4}$  NW $\frac{1}{4}$ , 1909 tax \$35.50, 9-30-11; 1909 tax

\$30.36, 9-30-11; 1910 tax \$31.81, 2-24-11; 1911 tax \$18.91, 12-30-11. Total \$180.53.

State of Oklahoma, Love County.

Personally appeared before me the undersigned authority, one Clara May Thompson, who being first duly sworn, states that she is a citizen of the Choctaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the roll of citizenship of said tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore and now made a part of this affidavit, said allotment being owned the allottee at the time said assessments are shown and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax, did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to anyone for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Clara May Thompson.

Subscribed and sworn to before me this 21 day of Aug.  
1915.

(Seal)

Jas. A. Porter,  
Notary Public.

My Commission expires May 16, 1917.

ASSIGNMENT OF CLAIM.

I, Clara May Thompson, allottee, as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and cost collected herein or that proportion of the tax, penalty and costs so collected, and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 21 day of Aug. 1915.

Clara May Thompson.

“Exhibit L-38.”

C. A. Greenlees.

For his 39th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length, and without this alleges and states that the defendant is indebted to plaintiff, who

is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$70.65 so paid defendant on the 27th day of March, 1911, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$19.16; and the further sum of \$85.63 so paid defendant on the 20th day of October, 1911, with interest thereon at 6 per cent per annum from said date in the sum of \$19.87.

The total sum herein demanded by plaintiff being \$156.28 principal and \$39.03 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-39 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or anyone for him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 8 South, Range 1 East, Sections 34-35.  
Roll A-11930.

Allottee, Robb D. Ward; Sex M; Blood 1-32; Age 21.

Description, Section 34, E 20 A. Lot 4, SE 10 A. Lot 3, NE $\frac{1}{4}$  SE $\frac{1}{4}$  W $\frac{1}{2}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$ . Tax Roll, 1909 tax \$19.68, 3-27-11; 1910 tax \$14.83, 3-27-11; 1911 tax \$61.79, 10-20-11. Section 35, W $\frac{1}{2}$  SW $\frac{1}{4}$  SW $\frac{1}{4}$  SW $\frac{1}{4}$  NW $\frac{1}{4}$  SW, 1909 tax \$6.15, 3-27-11; 1910 tax \$2.79, 3-27-11; 1911 tax \$11.58, 11-20-11. Township 9 South, Range 1 East, Section 3, N $\frac{1}{2}$  NW $\frac{1}{4}$  NE $\frac{1}{4}$ , Lot 1, 1909 tax \$18.70, 3-27-11; 1910 tax \$9.50, 3-27-11; 1911 tax \$12.26, 11-20-11. Total \$156.28.

State of Oklahoma, Love County.

Personally appeared before me the undersigned au-

thority, one Robb D. Ward, who being first duly sworn, states that he is a citizen of the Choctaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the roll of citizenship of said tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment, as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax, did pay the tax, penalty and costs so assessed. That said payment was without authority of law and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to anyone for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Robb D. Ward.

Subscribed and sworn to before me this 26 day of August, 1915.

M. L. Wineblood,  
Notary Public.

(Seal)

My commission expires April-17-1918.

ASSIGNMENT OF CLAIM.

I, Robb D. Ward, allottee, as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and cost so collected, and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 26 day of August, 1915.

Robb D. Ward.  
C. A. Greenlees.

"Exhibit L-39."

For his 40th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff, who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$80.66 so paid defendant on the 27th day of November, 1911, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$19.44.



The total sum herein demanded by plaintiff being \$80.66 principal and \$19.44 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-40 hereto attached, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or anyone for him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 6 South, Range 1 East, Section 16.  
Roll C-4488.

Allottee, Albert Ned Wallace; Sex M; Blood  $\frac{1}{2}$ ; Age 12.  
Description, NE $\frac{1}{4}$ . Tax Roll, 1909 tax \$47.08, 9-27-11;  
1910 tax \$33.58, 9-27-11. Total \$80.66.

State of Oklahoma, Love County.

Personally appeared before me the undersigned authority, one Albert Ned Wallace, who being first duly sworn, states that he is a citizen of the Chickasaw Nation of the Five Civilized Tribes, in fact and as shown by the above copy of the roll of citizenship of said tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes penalties and costs on said allotment as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in

selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax, did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to anyone for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Albert Ned Wallace.

Subscribed and sworn to before me this 27th day of August, 1915.

(Seal)

J. L. Pickens,

Notary Public.

My commission expires March-23-18.

#### ASSIGNMENT OF CLAIM.

I, Albert Ned Wallace, allottee, as shown above hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and cost so collected, and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for his services and ex-

penditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 27 day of August, 1915.

Albert Ned Wallace.

“Exhibit L-40.”

C. A. Greenlees.

For his 41st cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff in the following sums, to-wit:

\$1.17 so paid defendant on the 16th day of June, 1909, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$.43; and in the further sum of \$8.52 so paid defendant on the 19th day of April, 1910, with interest thereon at 6 per cent per annum from said date in the sum of \$2.79; and in the further sum of \$2.72 so paid defendant on the 9th day of November, 1911, with interest thereon at 6 per cent per annum from said date in the sum of \$.67.

The total sum herein demanded by plaintiff being \$12.41 principal and \$4.01 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-41 hereto attached, filed herewith and made a part hereof, as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or anyone for him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 6 South, Range 1 West, Section 22.  
Roll D-426.

Allottee, Jerry Bass; Sex M; Blood I W; Age 45.

Description, SE $\frac{1}{4}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$  W $\frac{1}{2}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$ . Tax roll, 1909 tax \$8.52, 4-19-10. Township 6 South, Range 1 East, Section 31, N $\frac{1}{2}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$ , 1909 tax \$1.17, 11-9-11; 1909 tax \$1.60, 6-16-09; 1910 tax \$1.12, 11-9-11. Total \$12.41.

State of Oklahoma, Love County.

Personally appeared before me the undersigned authority one Jerry Bass, who being first duly sworn, states that he is a citizen of the Chickasaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe, referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment, as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the Assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sums so collected

have not been returned to allottee, nor to anyone for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Jerry Bass.

Subscribed and sworn to before me this 9th day of September, 1915.

(Seal)

W. L. Richards, Court Clerk.

By Ona English, Deputy.

#### ASSIGNMENT OF CLAIM.

I, Jerry Bass, allottee as shown above hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or the proportion of the tax, penalty and costs so collected, and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 9th day of September, 1915.

Jerry Bass.

"Exhibit L-41."

C. A. Greenlees.

For his 42nd cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$69.27 so paid defendant on the 12th day of March, 1910, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$23.09; and the further sum of \$22.60 so paid defendant on the 5th day of January, 1911, with interest thereon at 6 per cent per annum from said date in the sum of \$6.44; and in the further sum of \$23.92 so paid defendant on the 27th day of March, 1911, with interest thereon at 6 per cent per annum from date in the sum of \$5.41.

The total sum herein demanded by plaintiff being \$115.79 principal and \$34.94 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-42 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or anyone for him, and that said demand is just, true, due and wholly unpaid.

#### AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 7 South, Range 1 West, Sections 26-35.  
Roll C-3022.

Allottee, Albert Sidney Burney; Sex M; Blood  $\frac{1}{2}$ ;  
Age 31.

Description, Section 26, N $\frac{1}{2}$  NW $\frac{1}{4}$  NW $\frac{1}{4}$  SE $\frac{1}{4}$ ; Tax roll, 1909 tax \$.16, 3-12-10; 1910 tax \$.34, 1-5-11; Section 35, NW $\frac{1}{4}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$ , S $\frac{1}{2}$  S $\frac{1}{2}$  NE $\frac{1}{4}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$ ; 1909 tax \$.66.63, 3-12-10; 1910 tax \$.20.21, 1-5-11; 1911 tax \$.23.14, 12-

27-11. Township 7 South, Range 2 East, Section 14, NE<sup>1</sup>/<sub>4</sub> NW<sup>1</sup>/<sub>4</sub> NW<sup>1</sup>/<sub>4</sub>; 1909 tax \$2.48, 3-12-10; 1910 tax \$2.05, 1-5-11; 1911 tax \$.78, 12-27-11. Total \$115.79.

State of Oklahoma, Love County.

Personally appeared before me the undersigned authority one Albert Sidney Burney, who being first duly sworn, states that he is a citizen of the Chickasaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown and paid the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs and said allottee believing because of said enumerated acts and threats that said allotment would be sold for non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to anyone for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Albert Sidney Burney.

Subscribed and sworn to before me this 18th day of August, 1915.

(Seal)

T. M. Scott, Notary Public.

My commission expires March 24, 1915.

ASSIGNMENT OF CLAIM.

I, Albert Sidney Burney, allottee as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and cost so collected and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

The contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 18th day of August, 1915.

Albert Sidney Burney.

"Exhibit L-42."

C. A. Greenlees.

For his 43rd cause of action hereby plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plain-



tiff who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff in the following sums, to-wit:

\$88.96 so paid defendant on the 6th day of November, 1911, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$20.02; and the further sum of \$62.66 so paid defendant on the 5th day of January, 1910, with interest thereon at 6 per cent per annum from date in the sum of \$17.86; and the further sum of \$33.58 so paid defendant on the 27th day of December, 1911, with interest thereon at 6 per cent per annum from date in the sum of \$7.68.

The total sum herein demanded by plaintiff being \$185.20 principal and \$45.56.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-43 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or any one for him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 7 South, Range 1 West, Sections 26-35.  
Roll C-3024.

Joseph Burney, Sex M; Blood  $\frac{1}{4}$ ; Age 6.

Description, NW $\frac{1}{4}$  of SE $\frac{1}{4}$  of SW $\frac{1}{4}$  and NE $\frac{1}{4}$  of SW $\frac{1}{4}$  of SW $\frac{1}{4}$ , and S $\frac{1}{2}$  of SW $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 26, 1909 \$11.93, paid, 11-6-11; 1910 \$8.98, paid 1-5-11, 1911, \$7.72, paid 12-27-11.

S $\frac{1}{2}$  of SE $\frac{1}{4}$  of NW $\frac{1}{4}$  and E $\frac{1}{2}$  of SW $\frac{1}{4}$  and NW $\frac{1}{4}$  of SE $\frac{1}{4}$  and N $\frac{1}{2}$  of NW $\frac{1}{4}$  of NW $\frac{1}{4}$ , Section 35, 1909, \$66.89, paid 11-6-11; 1910 \$47.41, paid 1-5-11; 1911 \$25.08, paid 11-27-11.

Township 7 South, Range 2 East, Section 14.

W $\frac{1}{2}$  of NW $\frac{1}{4}$  of NW $\frac{1}{4}$  and NW $\frac{1}{4}$  of SW $\frac{1}{4}$  of NW $\frac{1}{4}$ , 1909 \$10.14, paid 11-6-11; 1910 \$6.27, paid 1-5-11-; 1911 \$.78, paid 11-27-11. Total \$185.20.

State of Oklahoma, Love County, ss.

Personally appeared before me the undersigned authority, one Joseph Burney, who being first duly sworn states that he is a citizen of the Chickasaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment, as shown by the rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the Assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were in fact non-taxable for said year and that the sums so collected have not been returned to allottee, nor to anyone for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom,

and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Joseph Burney.

Subscribed and sworn to before me this 18th day of August, 1915.

(Seal)

T. M. Scott, Notary Public.

My commission expires March 24th, 1917.

ASSIGNMENT OF CLAIM.

I, Joseph Burney, allottee, as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and costs collected, and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by said C. A. Greenlees.

Dated this 18th day of August, 1915.

Joseph Burney.

“Exhibit L-43.”

C. A. Greenlees.

For his 44th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action

as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim, for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$32.69 so paid defendant on the 5th day of January, 1909, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$13.23; and the further sum of \$36.76, so paid defendant on the 21st day of March, 1910, with interest thereon at 6 per cent per annum from said date in the sum of \$12.36, and in the further sum of \$27.11 so paid defendant on the 5th day of January, 1911, with interest thereon at 6 per cent per annum from date in the sum of \$7.73; and in the further sum of \$15.63 so paid defendant on the 3rd day of ———, with interest thereon at 6 per cent per annum from said date, in the sum of \$——. The total sum herein demanded by plaintiff being \$112.19 principal and \$36.85 interest thereon.

In reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-44 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or any one for him, and that said demand is just, true, due and wholly unpaid.

#### AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 7 South, Range 1 West, Sections 26-35,  
Roll D-395.

Allottee, Lillie May Burney, Sex F; Blood  $1\frac{1}{2}$ ; Age 25.

Description, NW $\frac{1}{4}$  of SW $\frac{1}{4}$  of SW $\frac{1}{4}$  and N $\frac{1}{2}$  of SW $\frac{1}{4}$  of SE $\frac{1}{4}$  and W $\frac{1}{2}$  of SE $\frac{1}{4}$  of SE $\frac{1}{4}$ , Section 26. Tax roll, 1908 \$12.92, pd. 1-5-09; 1909 \$10, pd. 3-12-10; 1910 \$1.12, pd. 1-5-11, 1911 \$4.65, paid 12-27-12. Description, S $\frac{1}{2}$  of N $\frac{1}{2}$  of NW $\frac{1}{4}$  and SW $\frac{1}{4}$  of NW $\frac{1}{4}$  and NE $\frac{1}{4}$  of SE $\frac{1}{4}$  of NW $\frac{1}{4}$  and SE $\frac{1}{4}$  of NE $\frac{1}{4}$  of NE $\frac{1}{4}$  and NE $\frac{1}{4}$  of SW $\frac{1}{4}$  of NE $\frac{1}{4}$

and N $\frac{1}{2}$  of SE $\frac{1}{4}$  of NE $\frac{1}{4}$  and SE $\frac{1}{4}$  of SE $\frac{1}{4}$  of SE $\frac{1}{4}$ . Tax roll, 1908 \$16.20, paid 1-5-09; 1909 \$24.48, paid 3-10-10; 1910 \$23.89, paid 1-5-11; 1911 \$9.00 paid 12-27-12.

Township 7 South, Range 3 East, Section 14. NW $\frac{1}{4}$  of NW $\frac{1}{4}$  of SW $\frac{1}{4}$ . Tax roll, \$3.57, paid 11-5-09; 1909 \$2.48, paid 3-12-11; 1910 \$2.10, paid 1-5-10; 1911 \$1.98, paid 12-27-11. Total \$112.19.

State of Oklahoma, Love County, s. s.

Personally appeared before me the undersigned authority, one Lillie May Burney, who being first duly sworn, states that she is a citizen of the Chickasaw Nation of the Five Civilized Tribes, in fact, as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment, as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the Assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to any one for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Lillie May Burney.

Subscribed and sworn to before me this 18th day of August, 1915.

(Seal)

T. M. Scott, Notary Public.

My commission expires March 24th, 1917.

#### ASSIGNMENT OF CLAIM.

I, Lillie May Burney, allottee as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or the proportion of the tax, penalty and cost so collected, and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 18th day of August, 1915.

Lillie May Burney.

"Exhibit L-44."

C. A. Greenlees.

For his 45th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length, and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$105.39 so paid defendant on the 6th day of November, 1911, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$34.77; and the further sum of \$65.24 so paid defendant on the 5th day of January, 1911, with interest thereon at 6 per cent per annum from said date in the sum of \$18.59, and in the further sum of \$32.24 so paid defendant on the 27th day of November, 1912, with interest thereon at 6 per cent per annum from date in the sum of \$5.51, and in the further sum of \$—— so paid defendant on the —— day of ——, with interest thereon at 6 per cent per annum from said date, in the sum of \$——. The total sum herein demanded by plaintiff being \$202.87 principal and \$58.47 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-45, hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or anyone for him, and that said demand is just, true, due and wholly unpaid.

#### AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 7 South, Range 1 West, Sections 26-35.  
Roll C-2023.

Allottee, Sidney Guy Burney; Sex M; Blood  $\frac{1}{4}$ ; Age 7.  
Description, S $\frac{1}{2}$  of SE $\frac{1}{4}$  of SW $\frac{1}{4}$  and NE $\frac{1}{4}$  of NE $\frac{1}{4}$  of SW $\frac{1}{4}$  of Sec. 26. Tax Roll, 1909, \$12.92, paid 11-6-11, 1910, \$6.74, paid 1-5-11, 1911 \$5.34, paid 12-27-11.

Description,  $W\frac{1}{2}$  of  $SE\frac{1}{4}$  and  $W\frac{1}{2}$  of  $SE\frac{1}{4}$  of  $SE\frac{1}{4}$  and  $NE\frac{1}{4}$  of  $SE\frac{1}{4}$  of  $SE\frac{1}{4}$  and  $N\frac{1}{2}$  of  $NE\frac{1}{4}$  of  $NW\frac{1}{4}$  of Sec. 35. Tax Roll, 1909, \$75.64, paid 11-6-11, 1910, \$48.05, paid 1-5-11; 1911, \$23.02, paid 12-27-11. Township 7 South, Range 2 East, Section 14,  $SE\frac{1}{4}$  of  $NW\frac{1}{4}$  of  $NW\frac{1}{4}$  and  $NE\frac{1}{4}$  of  $SW\frac{1}{4}$  of  $NW\frac{1}{4}$  and  $S\frac{1}{2}$  of  $SW\frac{1}{4}$  of  $NW\frac{1}{4}$  and  $NE\frac{1}{4}$  of  $NW\frac{1}{4}$  of  $SW\frac{1}{4}$ . Tax Roll, 1909 \$16.83, paid 11-6-11; 1910 \$10.45, paid 1-5-11; 1911 \$3.86, paid 12-27-11. Total \$202.87.

State of Oklahoma, Love County.

Personally appeared before me the undersigned authority, one Sidney Guy Burney, who being first duly sworn, states that he is a citizen of the Chickasaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs allotment, as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax, did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to anyone for him.



Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Sidney Guy Burney.

Subscribed and sworn to before me this 18th day of Aug. 1915.

(Seal)

T. M. Scott.

Notary Public.

My commission expires Mar. 24th, 1917.

#### ASSIGNMENT OF CLAIM.

I, Sidney Guy Burney, allottee, as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by said C. A. Greenlees, that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or the proportion of the tax, penalty and costs so collected, and shall retain all of the remainder of the sums collected and accruing which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 18th day of Aug., 1915.

Sidney Guy Burney.

"Exhibit L-45."

C. A. Greenlees.

For his 46th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff, who is the owner of this claim, as for money had and received, and which demand defendant heretofore promises to repay plaintiff, in the following sums, to-wit:

\$99.36 so paid defendant on the 19th day of March, 1910, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$33.04 and the further sum of \$74.09, so paid defendant on the 13th day of June, 1910, with interest thereon at 6 per cent per annum from said date in the sum of \$18.41, and in the further sum of \$43.95 so paid defendant on the 12th day of January, 1912, with interest thereon at 6 per cent per annum from date in the sum of \$9.82, and in the further sum of..... so paid defendant on the .....day of ....., with interest thereon at 6 per cent per annum from said date, in the sum of \$..... The total sum herein demanded by plaintiff being \$217.40 principal and \$61.27 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-46 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or any one for him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 7 South, Range 1 West, Sections 34-35.  
Roll C-1743.

Allottee, Julian Burney, Sex M; Blood  $\frac{1}{4}$ , Age 20.

Description, S $\frac{1}{2}$  of SW $\frac{1}{4}$  of NE $\frac{1}{4}$  and NE $\frac{1}{4}$  of NE $\frac{1}{4}$  and SE $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 34. Tax Roll, 1909, \$73.98, paid 3-19-10; 1910, \$49.39, paid 6-13-11; 1911, \$31.60, paid 1-12-12.

Description, NW $\frac{1}{4}$  of SW $\frac{1}{4}$  and SW $\frac{1}{4}$  of SW $\frac{1}{4}$ , Section 35. Tax Roll, 1909 \$25.38, paid 3-19-10; 1910, \$24.70, paid 6-13-11; 1911 \$12.35, paid 1-12-12. Total \$217.40.

State of Oklahoma, Love County, ss.

Personally appeared before me the undersigned authority, one Julian Burney, who being first duly sworn, states that he is a citizen of the Chikasaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment, as shown by the Tax Rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax, did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to anyone for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom,

and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Julian Burney.

Subscribed and sworn to before me this 12th day of Aug., 1915.

T. M. Scott,

(Seal)

Notary Public.

My commission expires Mar. 24, 1917.

ASSIGNMENT OF CLAIM.

I, Julian Burney, allottee, as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees, that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery therein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and cost so collected, and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 12th day of Aug. 1915.

Julian Burney.

“Exhibit L-46.”

C. A. Greenlees.

For his 47th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges

and states that the defendant is indebted to plaintiff, who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$61.30 so paid defendant on the 6th day of November, 1911, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$14.41, and the further sum of \$29.44, so paid defendant on the 5th day of November, 1911, with interest thereon at 6 per cent per annum from said date in the sum of \$8.39, and in the further sum of \$27.85 so paid defendant on the 27th day of November, 1911, with interest thereon at 6 per cent per annum from date in the sum of \$5.43; and in the further sum of \$..... so paid defendant on the ..... day of ....., with interest thereon at 6 per cent per annum from said date, in the sum of \$....., the total sum herein demanded by plaintiff being \$118.59 principal and \$28.23 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-47 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or anyone for him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Roll C-3026.

Township 7 South, Range 2 East, Section 23.

Allottee, Gerakline Burney; Sex F; Blood  $\frac{1}{4}$ ; Age 1.

Description,  $W\frac{1}{2}$   $NW\frac{1}{4}$   $NW\frac{1}{4}$   $SW\frac{1}{4}$   $W\frac{1}{2}$   $E\frac{1}{2}$   $NW\frac{1}{4}$   $W\frac{1}{2}$   $NE\frac{1}{4}$   $SW\frac{1}{4}$   $E\frac{1}{2}$   $NW\frac{1}{4}$   $SW\frac{1}{4}$   $SW\frac{1}{4}$   $NW\frac{1}{4}$   $SW\frac{1}{4}$ , 1909 tax \$61.30, paid 11-6-11; 1910 tax \$29.44, paid 11-5-11; 1911 tax \$27.85, paid 11-27-11. Total \$118.59.

State of Oklahoma, Love County, ss.

Personally appeared before me the undersigned author-

ity, one Albert Sidney Burney, father of Geraldine Furuey, who being first duly sworn, states that she is a citizen of the Chickasaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment, as shown by the Tax Roll of Love County, Oklahoma, a true copy and description as to the said allotment being set forth hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful unauthorized acts and threats of the assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax, did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to anyone for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Albert Sidney Burney,

Subscribed and sworn to before me this 18th day of Aug. 1915.

T. M. Scott,

(Seal)

Notary Public.

My commission expires Mar. 24th, 1917.

ASSIGNMENT OF CLAIM.

I, Albert Sidney Burney, father of Geraldine Burney, allottee, as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax penalty and costs collected herein, or that proportion of the tax, penalty and cost so collected, and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 18th day of Aug. 1915.

Albert Sidney Burney.

“Exhibit L-47.”

C. A. Greenlees.

For his 48th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff, who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$61.30 so paid defendant on the 6th day of November, 1911, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$12.79; and the further

sum of \$29.44, so paid defendant on the 5th day of January, 1911, with interest thereon at 6 per cent per annum from said date in the sum of \$6.39 and in the further sum of \$27.84 so paid defendant on the 27th day of November, 1911, with interest thereon at 6 per cent per annum from date in the sum of \$6.43; and in the further sum of \$..... so paid defendant on the ..... day of ....., with interest thereon at 6 per cent per annum from said date, in the sum of \$..... The total sum herein demanded by plaintiff being \$118.58 principal and \$25.61 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-48 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid or anyone for him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 7 South, Range 2 East, Section 23.  
Roll C-3025.

Allottee, Tams Bixby Burney; Sex M; Blood  $\frac{1}{4}$  Age 4.

Description, SE $\frac{1}{4}$  NW $\frac{1}{4}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$  NW $\frac{1}{4}$   
SE $\frac{1}{4}$  NE $\frac{1}{4}$  NW $\frac{1}{4}$  NE $\frac{1}{4}$  W $\frac{1}{2}$  NW $\frac{1}{4}$  NE $\frac{1}{4}$  E $\frac{1}{2}$  E $\frac{1}{2}$  NW $\frac{1}{4}$   
E $\frac{1}{2}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$ , 1909 tax \$61.30, paid 11-6-11; 1910 tax \$29.44, paid 1-5-11; 1911 tax \$27.84, paid 11-27-11. Total \$118.58.

State of Oklahoma, Love County, ss.

Personally appeared before me the undersigned authority, one Albert Sidney Burney, father of Tams Bixby Burney, who being first duly sworn, states that he is a citizen of the Chickasaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact,



taxes, penalties and costs on said allotment, as shown by the Tax Rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax, did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee nor to anyone for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Albert Sidney Burney.

Subscribed and sworn to before me this 18th day of August, 1915.

(Seal)

T. M. Scott,

Notary Public.

My commission expires Mar. 24th, 1917.

#### ASSIGNMENT OF CLAIM

I, Albert Sidney Burney, father of Tams Bixby Burney, allottee, as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder

of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax penalty and costs collected herein, or the proportion of the tax, penalty and costs so collected, and shall retain all of the remainder of the sums so collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 18th day of Aug. 1915.

"Exhibit L-48."

Albert Sidney Burney.  
C. A. Greenlees.

For his 49th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff, who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$24.98 so paid defendant on the 1st day of June, 1910, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$8.60, and the further sum of \$....., so paid defendant on the ..... day of ....., with interest thereon at 6 per cent per annum from said date in the sum of \$....., and in the further sum of \$....., so paid defendant on the ..... day of ....., with interest thereon at 6 per cent per annum from date in

the sum of \$....., and in the further sum of \$..... so paid defendant on the ..... day of ....., with interest thereon at 6 per cent per annum from said date in the sum of \$....., the total sum herein demanded by plaintiff being \$24.98 principal and \$8.00 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-49 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or anyone for him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 7 South, Range 1 East, Section 1.  
Roll A-14341.

Allottee, Lee Askew; Sex M; Blood 1-16; Age 21.

Description, SW $\frac{1}{4}$  NW $\frac{1}{4}$  W $\frac{1}{2}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$  & Lot 4; NE $\frac{1}{4}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$ , 1909 tax \$24.98, paid 6-1-10. Total \$24.98.

State of Oklahoma, Love County, ss.

Personally appeared before me the undersigned authority, one Lee Askew, who being first duly sworn, states that he is a citizen of the Choctaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment, as shown by the Tax Rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the assessors and the

County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax, did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to anyone for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Lee Askew

Subscribed and sworn to before me this 28th day of August, 1915.

(Seal)

F. W. Howell,  
Notary Public.

My commission expires Jan. 22, 1919.

#### ASSIGNMENT OF CLAIM.

I, Lee Askew, allottee, as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of the transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or the proportion of the tax, penalty

and costs so collected, and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 28th day of August, 1915.

“Exhibit L-49.”

Lee Askew,  
C. A. Greenlees.

For his 50th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff, who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$203.34 so paid defendant on the 21st day of November, 1911, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$47.28; and the further sum of \$....., so paid defendant on the .....day of ....., with interest thereon at 6 per cent per annum from said date in the sum of \$....., and in the further sum of \$..... so paid defendant on the .....day, with interest thereon at 6 per cent per annum from date in the sum of \$....., and in the further sum of \$..... so paid defendant on the .....day of ....., with interest thereon at 6 per cent per annum from said date in the sum of \$..... The total sum herein demanded by plaintiff being \$203.34 principal and \$47.28 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-50 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and

the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or anyone for him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 7 South, Range 1 West, Section 4-8-9.  
Roll C-2949.

Allottee, Urnest Lee Alexander; Sex M; Blood 1-9;  
Age 2.

Sec. 4, W $\frac{1}{2}$  SW $\frac{1}{4}$  S $\frac{1}{2}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$ , 1909. Tax Roll, \$26.99, paid 11-21-11; 1910 tax \$6.59, paid 11-21-11; 1911 tax \$13.38, paid 11-21-11. Sec. 8, NE $\frac{1}{4}$  NE $\frac{1}{4}$ , 1909 tax \$11.01, paid 11-21-11; 1910 tax \$6.24, paid 11-21-11; 1911 tax \$5.35, paid 11-21-11. Sec. 9, W $\frac{1}{2}$  NW $\frac{1}{4}$  NE $\frac{1}{4}$  NW $\frac{1}{4}$  NE $\frac{1}{4}$  E $\frac{1}{2}$  NW $\frac{1}{4}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$  NW $\frac{1}{4}$  SW $\frac{1}{4}$  NW $\frac{1}{4}$  N $\frac{1}{2}$  NW $\frac{1}{4}$  NW $\frac{1}{4}$  SW $\frac{1}{4}$  NW $\frac{1}{4}$  NW $\frac{1}{4}$ , 1909 tax \$61.04, paid 11-21-11; 1910 tax \$47.32, paid 11-21-11; 1911 tax \$25.42, paid 11-21-11. Total \$203.34.

State of Oklahoma, Love County, ss.

Personally appeared before me the undersigned authority, one D. L. Alexander, guardian, who being first duly sworn states that Urnest Lee Alexander, a citizen of the Chickasaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes penalties and costs on said allotment, as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and authorized acts and threats of the Assessors and the

County Treasurer of Love County, Oklahoma, in assessing levying, extending, charging and demanding said tax and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax, did pay the tax, penalty and costs so assessed. That said payment was without authority of law and that said lands were, in fact, non-taxable for said years, and that sums so collected have not been returned to allottee nor to anyone for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay the same to one C. A. Greenlees, who is trustee for affiant to receive same.

D. L. Alexander.

Subscribed and sworn to before me this 9th day of September, 1915.

W. L. Richards, County Clerk.

(Seal)

By Ona English, Deputy.

#### ASSIGNMENT OF CLAIM.

I, D. L. Alexander, Guardian, allottee, as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and costs so collected, and shall retain all of the remainder

of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 9th day of September, 1915.

“Exhibit L-50.”

D. L. Alexander.

C. A. Greenlees.

For his 51st cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$68.59 so paid defendant on the 21st day of November, 1911, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$15.92; and the further sum of \$.... so paid defendant on the ....day of.....with interest thereon at 6 per cent per annum from said date in the sum of \$...., and in the further sum of \$.... so paid defendant on the .... day of ....., with interest thereon at 6 per cent per annum from date in the sum of \$.... and in the further sum of \$.... so paid the defendant on the .... day of ....., with interest thereon at 6 per cent per annum from said date, in the sum of \$.... The total sum herein demanded by plaintiff being \$68.59 principal and \$15.92 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-51 hereto attached, filed herewith and made a part hereof as though set forth herein at length together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or anyone for



him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 7 South, Range 1 West, Sections 8-10-15-16.  
Roll Y-233.

Euna May Alexander, Sex F; Blood 1-8; Age 2.

Section 8, SE $\frac{1}{4}$  NW $\frac{1}{4}$  NE $\frac{1}{4}$ , SE $\frac{1}{4}$  NE $\frac{1}{4}$  NW $\frac{1}{4}$  less 3.75 A. for Pike; 1909 tax \$1.75, paid 11-21-11; 1910 tax \$3.07, paid 11-21-11; 1911 tax \$1.78, paid 11-21-11.

Section 10, W $\frac{1}{2}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$  S $\frac{1}{2}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$ ; 1909 tax \$3.67, paid 11-21-11; 1910 tax \$8.74, paid 11-21-11; 1911 tax \$4.76, paid 11-21-11.

Section 15, NW $\frac{1}{4}$  NW $\frac{1}{4}$  NE $\frac{1}{4}$  NW $\frac{1}{4}$ ; 1909 tax \$6.02, paid 11-21-11; 1910 tax \$12.48, paid 11-21-11; 1911 tax \$6.69, paid 11-21-11.

Section 16 N $\frac{1}{2}$  N $\frac{1}{2}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$  NW $\frac{1}{4}$  NE $\frac{1}{4}$ ; 1909 tax \$5.71, paid 11-21-11; 1910 tax \$8.48, paid 11-21-11; 1911 tax \$5.43, paid 11-21-11. Total \$68.59.

State of Oklahoma, Love County, ss.

Personally appeared before me the undersigned authority, one D. L. Alexander, Guardian for Euna May Alexander, who being first duly sworn states that she is a citizen of the Chickasaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and un-

authorized acts and threats of the Assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to anyone for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

D. L. Alexander.

Subscribed and sworn to before me this 9th day of September, 1915.

(Seal)

W. L. Alexander, County Clerk.

By Ona English, Deputy.

#### ASSIGNMENT OF CLAIM.

I, D. L. Alexander, Guardian for Euna May Alexander, allottee, as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein or that proportion of the tax, penalty and cost so collected,

and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 9th day of September, 1915.

D. L. Alexander.

“Exhibit L-51.”

C. A. Greenlees.

For his 52nd cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff in the following sums, to-wit:

\$120.42 so paid defendant on the 21st day of November, 1911, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$35.16; and the further sum of \$53.60, so paid defendant on the 26th day of April, 1912, with interest thereon at 6 per cent per annum from said date in the sum of \$11.04 and in the further sum of \$.... so paid defendant on the .... day of ....., with interest thereon at 6 per cent per annum from date in the sum of \$...., and in the further sum of \$.... so paid defendant on the .... day of ....., with interest thereon at 6 per cent per annum from said date, in the sum of \$.... The total sum herein demanded by plaintiff being \$174.02 principal and \$46.20 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-52 hereto attached, filed herewith and made a part hereof as though set forth herein at length together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges

that no part of said claim has ben paid him or anyone for him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 7 South, Range 1 West, Sections 8-9.  
Roll C-1825.

15. Allottee, Myrtle Virginia Ball; Sex F; Blood 1-8; Age

Section 8, S<sup>1</sup>/<sub>2</sub> SW<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub> S<sup>1</sup>/<sub>2</sub> SE<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub> NW<sup>1</sup>/<sub>4</sub> SE<sup>1</sup>/<sub>4</sub> N<sup>1</sup>/<sub>2</sub> NE<sup>1</sup>/<sub>4</sub> SE<sup>1</sup>/<sub>4</sub> SW<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub> SE<sup>1</sup>/<sub>4</sub> SW<sup>1</sup>/<sub>4</sub> SE<sup>1</sup>/<sub>4</sub> SE<sup>1</sup>/<sub>4</sub> SE<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub> SE<sup>1</sup>/<sub>4</sub> N<sup>1</sup>/<sub>2</sub> SE<sup>1</sup>/<sub>4</sub> SE<sup>1</sup>/<sub>4</sub> SW<sup>1</sup>/<sub>4</sub>; 1909 tax \$76.39, paid 1-21-11; 1910 tax \$42.41, paid 10-21-11, 1911 tax \$51.44, paid 4-26-12.

Section 9, NW<sup>1</sup>/<sub>4</sub> SW<sup>1</sup>/<sub>4</sub> SW<sup>1</sup>/<sub>4</sub>; 1910 tax \$1.62, paid 10-21-11; 1911 tax \$2.16, paid 4-26-12. Total \$174.02.

State of Oklahoma, Love County, ss.

Personally appeared before me the undersigned authority, one Myrtle Virginia Ball, nee Armstrong, who being first duly sworn states that she is a citizen of the Chickasaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment, as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the Assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax and in threatening to sell, in advertising for sale and offering to sell said lands and in

selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to any one for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said taxes and all his legal demand arising therefrom, and pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Myrtle B. Armstrong.

Subscribed and sworn to before me this 14th day of August, 1915.

(Seal)

D. C. Culwell, Notary Public.

My commission expires August 8th, 1917.

I, Myrtle Virginia Ball, nee Armstrong, allottee, as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said land. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and costs so collected, and shall retain all of the remainder of the sums collected and accruing which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 14th day of August, 1915.

Myrtle V. Armstrong.

“Exhibit L-52.”

C. A. Greenlees.

For his 53rd cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that he defendant is indebted to plaintiff who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff in the following sums, to-wit:

\$118.01 so paid defendant on the 21st day of November, 1910, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$43.29, and the further sum of \$25.53 so paid defendant on the 30th day of December, 1912, with interest thereon at 6 per cent per annum from said date in the sum of \$3.32 and in the further sum of \$.... so paid defendant on the .... day of ....., with interest thereon at 6 per cent per annum from date in the sum of \$.... and in the further sum of \$.... so paid defendant on the .... day of ....., with interest thereon at 6 per cent per annum from date, in the sum of \$.... The total sum herein demanded by plaintiff being \$143.54 principal and \$46.61 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-53 hereto attached, filed herewith and made a part hereof as though set forth herein at length together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or any one for him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 7 South, Range 1 West, Sections 8-9-16.

Roll Y-232.

William Henry Armstrong; Sex M; Blood 1-16; Age 1.

Section 8, NE $\frac{1}{4}$  SE $\frac{1}{4}$  NE $\frac{1}{4}$  NW $\frac{1}{4}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$  N $\frac{1}{2}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$  less 2.50 A. for Pike and S $\frac{1}{2}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$ ; 1909 tax \$9.36, paid 10-21-11; 1910 tax \$22.78, paid 10-21-11; 1911 tax \$4.93, paid 11-30-12.

Section 9, NW $\frac{1}{4}$  SW $\frac{1}{4}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$  W $\frac{1}{2}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$  E $\frac{1}{2}$  SW $\frac{1}{4}$  SW $\frac{1}{4}$ ; 1909 tax \$34.06, paid 10-21-11; 1910 tax \$18.71, paid 10-21-11; 1911 tax \$11.95, paid 1-30-12.

Section 16, S $\frac{1}{2}$  NE $\frac{1}{4}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$ ; 1909 tax \$21.82, paid 10-21-11; 1910 tax \$11.28, paid 10-21-11; 1911 tax \$8.65, paid 1-30-12. Total \$143.54.

State of Oklahoma, Love County, ss.

Personally appeared before me the undersigned authority, one James N. Armstrong, Guardian, who being first duly sworn, states that he is a citizen of the Chickasaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under mistake of law and fact, taxes, penalties and costs on said allotment, as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit said allotment being owned by the allottee at the time said assessments are shown, and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the Assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging

and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to anyone for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

James N. Armstrong.

Subscribed and sworn to before me this 14th day of August, 1915.

(Seal)

D. G. Culwell, Notary Public.

My commission expires August 8th, 1917.

#### ASSIGNMENT OF CLAIM.

I, James N. Armstrong, Guardian for William Henry Armstrong, allottee, as shown above, hereby assign and transfer the above demand and chose in action due claimant for Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein or that proportion of the tax, penalty and costs so collected, and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for



his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

James N. Armstrong.  
C. A. Greenlees.

“Exhibit L-53.”

For his 54th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff the following sums, to-wit:

\$93.74 so paid defendant on the 5th day of March, 1912, with interest hereon from said date at 6 per cent per annum until paid, being the sum of \$20.15; and the further sum of \$.... so paid the defendant on the .... day of ....., with interest thereon at 6 per cent per annum from said date in the sum of \$...., and in the further sum of \$.... so paid defendant on the .... day of ..... with interest thereon at 6 per cent per annum from date in the sum of \$...., and in the further sum of \$.... so paid defendant on the .... day of .... with interest thereon at 6 per cent per annum from said date in the sum of \$..... The total sum herein demanded by plaintiff being \$93.54 principal and \$20.15 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-54 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or any one for him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 7 South, Range 3 East, Section 12.  
Roll C-14219.

Allottee, Edna Askew; Sex F; Blood 1-16; Age 12.

SE $\frac{1}{4}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$  NW $\frac{1}{4}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$  N 10.04 A. of Lot  
3 and Lots 1 and 2; 1909 tax \$31.88, paid 3-5-12; 1910 tax  
\$25.36, paid 3-5-12; 1911 tax \$36.50, paid 3-5-13.

State of Oklahoma, Love County, ss.

Personally appeared before me the undersigned authority, one Edna Washington, nee Askew, who being first duly sworn states that she is a citizen of the Chickasaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotments, as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the Assessors and County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to any one for him.

Wherefore, affiant prays the Honorable Board of

County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Edna Washington.

Subscribed and sworn to before me this 20th day of September, 1915.

W. L. Richards, Court Clerk.  
By Ona English, Deputy.

(Seal)

#### ASSIGNMENT OF CLAIM.

I, Edna Washington, nee Askew, allottee, as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent per annum of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and costs so collected, and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 20th day of September, 1915.

Edna Washington.  
C. A. Greenlees.

“Exhibit L-54.”

For his 55th cause of action herein plaintiff refers to

paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length, and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff in the following sums, to-wit:

\$124.89 so paid defendant on the 23rd day of December, 1910, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$35.84, and the further sum of \$52.69 so paid defendant on the 7th day of November, 1911, with interest thereon at 6 per cent per annum from said date in the sum of \$12.38 and in the further sum of \$. . . . so paid defendant on the . . . . day of . . . ., with interest thereon at 6 per cent per annum from date in the sum of \$. . . . and in the further sum of \$. . . . so paid defendant on the . . . . day of . . . . with interest thereon at 6 per cent per annum from said date, in the sum of \$. . . . The total sum herein demanded by plaintiff being \$171.69 principal and \$48.22 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-55 hereto attached, filed herewith and made a part hereof as though set forth herein at length; together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or any one for him, and that said demand it ust, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 6 South, Range 2 East, Section 14-22-23.  
Roll A-425.

Allottee, Geo. W. Cross; Sex M; Blood 1-8; Age 23.

Section 14, SW $\frac{1}{4}$  SW $\frac{1}{4}$  SW $\frac{1}{4}$ ; 1909 tax \$1.38, paid 12-23-10; 1910 tax \$1.06, paid 12-23-10.

Section 22, SE $\frac{1}{4}$  NE $\frac{1}{4}$ , E $\frac{1}{2}$  SE $\frac{1}{4}$ , E $\frac{1}{2}$  W $\frac{1}{2}$  SE $\frac{1}{4}$  E $\frac{1}{2}$

SW  $\frac{1}{4}$  NE  $\frac{1}{4}$  N  $\frac{1}{2}$  NE  $\frac{1}{4}$ ; 1909 tax \$36.23, paid 11-7-11; 1909 tax \$47.44, paid 11-23-10; 1910 tax \$64.68, paid 12-23-10.

Section 23, NW  $\frac{1}{4}$  NW  $\frac{1}{4}$ ; 1908 tax \$10.57, paid 11-7-11; 1909 tax \$5.98, paid 11-6-11; 1910 tax \$4.44, paid 12-23-10. Total \$171.69.

State of Oklahoma, Love County, ss.

Personally appeared before me the undersigned authority, one Geo. W. Cross, who being first duly sworn states that he is a citizen of the Choctaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment, as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the Assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sum so collected have not been returned to allottee, nor to any one for him.

Wherefore, affiant prays that the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom

and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Geo. W. Cross.

Subscribed and sworn to before me this 17th day of September, 1915.

(Seal)

B. C. Newton, Notary Public.

My commission expires July 14th, 1918.

ASSIGNMENT OF CLAIM.

I, Geo. W. Cross, allottee, as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. That the consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and costs so collected, and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 17th day of September, 1915.

"Exhibit L-55."

Geo. W. Cross  
C. A. Greenlees.

For his 56th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length, and without this alleges and states that the defendant is indebted to plaintiff who is

the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$169.19 so paid defendant on the 14th day of November, 1911, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$39.41, and the further sum of \$.... so paid defendant on the .... day of .... with interest thereon at 6 per cent per annum from said date in the sum of \$.... and in the further sum of \$.... so paid defendant on the .... day of .... with interest thereon at 6 per cent per annum from date in the sum of \$...., and in the further sum of \$.... so paid defendant on the .... day of ...., with interest thereon at 6 per cent per annum from said date, in the sum of \$..... The total sum herein demanded by plaintiff being \$169.19 principal and \$39.41 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-56 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or anyone for him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 7 South, Range 1 West, Sections 5-6.  
Roll C-653.

Albert Pike Coyle; Sex M; Blood 3-8; Age 14.

Section 5, W $\frac{1}{2}$  SW $\frac{1}{4}$  W $\frac{1}{2}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$ ; 1909 tax \$98.24, paid 11-14-11; 1910 tax \$54.61, paid 11-14-11.

Section 6, E $\frac{1}{2}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$ ; 1909 tax \$10.90, paid 11-14-11; 1910 tax \$5.44, paid 11-14-11. Total \$169.19.

State of Oklahoma, Love County, ss.

Personally appeared before me the undersigned authority, one Albert Pike Coyle, who being first duly sworn,

states that he is a citizen of the Chickasaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe, referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment, as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the Assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands in the selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sum so collected have not been returned to allottee, nor to any one for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

A. P. Coyle.

Subscribed and sworn to before me this 16th day of September, 1915.

(Seal)

T. M. Scott, Notary Public.

My commisison expires March 24th, 1917.



ASSIGNMENT OF CLAIM.

I, Albert Pike Coyle allottee as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and costs so collected, and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 16th day of September, 1915.

"Exhibit L-56."

Albert Pike Coyle,  
C. A. Greenlees.

For his 57th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length, and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim, as for money had and received, and which demanded defendant heretofore promised to repay plaintiff in the following sums, to-wit:

\$25.77 so paid defendant on the 20th day of March, 1911, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$7.00, and the further sum of \$. . . . so paid defendant on the . . . . day of . . . .

with interest thereon at 6 per cent per annum from said date in the sum of \$.... and in the further sum of \$.... so paid defendant on the .... day of ....., with interest thereon at 6 per cent per annum from said date, in the sum of \$..... The total sum herein demanded by plaintiff being \$25.77 principal and \$7.10 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. 1-57 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or any one for him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 6 South, Range 1 East, Section 36.  
Roll A-14242,

Allottee, Lizzie Wilson; Sex F; Blood 1-16; Age 19.

W $\frac{1}{2}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$  NW $\frac{1}{4}$  SE $\frac{1}{4}$ ; 1909 tax \$15.35, paid 8-20-11; 1910 tax \$10.42, paid 3-20-11. Total \$25.77.

State of Oklahoma, Love County—ss.

Personally appeared before me the undersigned authority, one Lizzie Wilson, who being first duly sworn states that she is a citizen of the Choctaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship or said Tribe referred to and made a part of this affidavit, and who under a mistake of law and fact, taxes, penalties and costs on said allotment, as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the Assessors and the

County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax and in threatening too sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to any one for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Lizzie Wilson.

Subscribed and sworn to before me this 14th day of September, 1915.

(Seal)

F. W. Howell, Notary Public.

My commission expires January 22, 1919.

#### ASSIGNMENT OF CLAIM.

I, Lizzie Wilson, allottee as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and costs so collected, and shall retain all of the remainder of the sums collected and accruing, which shall be his com-

pensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 14th day of September, 1915.

Lizzie Wilson.

“Exhibit L-57.”

C. A. Greenlees.

For his 58th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$22.36 so paid defendant on the 25th day of March, 1910, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$7.41 and the further sum of \$.... so paid defendant on the .... day of ..... with interest thereon at 6 per cent per annum from said date in the sum of \$.... and in the further sum of \$.... so paid defendant on the .... day of ..... with interest thereon at 6 per cent per annum from date in the sum of \$...., and in the further sum \$.... so paid defendant on the .... day of ....., with interest thereon at 6 per cent per annum from said date in the sum of \$..... The total sum herein demanded by plaintiff being \$22.36 principal and \$7.41 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-58 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or any one for him, and the said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 8 South, Range 3 East, Sections 5-6.  
Roll C-3104.

Allottee, Hattie Byrd Love; Sex F; Blood 3-32; Age 30.  
Section 5, E<sup>1</sup>/<sub>2</sub> SE<sup>1</sup>/<sub>4</sub> SE<sup>1</sup>/<sub>4</sub> SE<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub>, SE<sup>1</sup>/<sub>4</sub>, NE<sup>1</sup>/<sub>4</sub>  
NE<sup>1</sup>/<sub>4</sub> SE<sup>1</sup>/<sub>4</sub>; 1909 tax \$17.88, paid 3-25-10.

Section 6, NW<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub> SE<sup>1</sup>/<sub>4</sub>; 1909 tax \$4.48, paid 3-25-10. Total \$22.36.

State of Oklahoma, Love County—ss.

Personally appeared before me the undersigned authority, one Hattie Byrd Smith, nee Love, who being first duly sworn states that she is a citizen of the Chickasaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment, as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the Assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to any one for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Hattie Byrd Smith, nee Love.

Subscribed and sworn to before me this 18th day of September, 1915.

W. L. Richards, Court Clerk.

By Ona English, Deputy.

(Seal)

#### ASSIGNMENT OF CLAIM.

I, Hattie Byrd Smith, nee Love, allottee as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and cost so collected, and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 18th day of September, 1915.

Hattie Byrd Smith, nee Love.

"Exhibit L-58."

C. A. Greenlees.

For his 59th cause of action herein plaintiff refers to

paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$54.36 so paid defendant on the 25th day of March, 1910, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$18.02 and the further sum of \$36.71 so paid defendant on the 26th day of June, 1911, with interest thereon at 6 per cent per annum from said date in the sum of \$9.40 and in the further sum of \$.... so paid defendant on the .... day of ..... with interest thereon at 6 per cent per annum from date in the sum of \$...., and in the further sum of \$.... so paid defendant on the .... day of ..... with interest thereon at 6 per cent per annum from said date, in the sum of \$.... The total sum herein demanded by plaintiff being \$91.07 principal and \$27.42 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-59 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or anyone for him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 7 South, Range 2 East, Section 5.

Roll S-254.

Allottee, Luther Bell Smith, Jr.; Sex M; Blood 3-64;

Age 1.

SW 10 acres, lot 2 and SW $\frac{1}{4}$  SW $\frac{1}{4}$  NW $\frac{1}{4}$ , N $\frac{1}{2}$  N $\frac{1}{2}$  SW $\frac{1}{4}$ ; 1909 tax \$4.75, paid 3-25-10; 1910 tax \$6.64, paid 6-26-11.

Township 8 South, Range 3 East, Section 17, S $\frac{1}{2}$  SW $\frac{1}{4}$

SW $\frac{1}{4}$ , Lots 4 and 5; 1909 tax \$30.89, paid 5-25-10; 1910 tax \$22.35, paid 6-26-11.

Section 18, S $\frac{1}{2}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$ , SE $\frac{1}{4}$  SE $\frac{1}{4}$ ; 1909 tax \$18.72, paid 3-25-10; 1910 tax, \$7.72, paid 6-26-11. Total \$91.07.

State of Oklahoma, Love County, ss.

Personally appeared before me the undersigned authority, one Luther Bell Smith, Jr., who being first duly sworn states that he is a citizen of the Chickasaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment, as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the Assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demand said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to any one for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom and pay



same to one C. A. Greenlees, who is trustee for affiant to receive same.

Luther Bell Smith, Jr.

By Hattie Byrd Smith, Nat. Gdn.

Subscribed and sworn to before me this 18th day of September, 1915.

W. L. Richards, Court Clerk.

By Ona English, Deputy.

(Seal)

ASSIGNMENT OF CLAIM.

I, Luther Bell Smith, Jr., by Hattie Byrd Smith, Guardian, allottee, as shown by above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and cost so collected, and shall retain all of the remainder of the sums collected and accruing which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 18th day of September, 1915.

Luther Bell Smith, Jr.

Hattie Byrd Smith.

C. A. Greenlees.

“Exhibit L-59.”

For his 60th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and

every part of the same as a part of this cause of action as though set forth herein at length, and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff in the following sums, to-wit:

\$74.40 so paid defendant on the 14th day of December, 1911, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$17.89, and the further sum of \$.... so paid defendant on the .... day of ..... with interest thereon at 6 per cent per annum from said date in the sum of \$.... and in the further sum of \$.... so paid defendant on the .... day of ....., with interest thereon at 6 per cent per annum from date in the sum of \$...., and in the further sum of \$.... so paid defendant on the .... day of ..... with interest thereon at 6 per cent per annum from said date in the sum of \$..... The total sum herein demanded by plaintiff being \$74.40 principal and \$17.89 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-60 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or any one for him, and that the said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 6 South, Range 2 East, Sections 15 and 23.  
Roll B-1246.

Mariah Cross, Sex B; Blood 1W; Age 19.

Section 222, N $\frac{1}{2}$  NW $\frac{1}{4}$ ; 1908 tax \$29.00, paid 12-14-11;  
1909 tax \$10.77, paid 12-14-11; 1910 tax \$21.56, paid 12-14-11.

Section 15, SE $\frac{1}{4}$  SW $\frac{1}{4}$ ; 1909 tax \$7.52, paid 12-14-11;  
1910 tax \$5.45, paid 12-14-11. Total \$74.40.

State of Oklahoma, Love County—ss.

Personally appeared before me the undersigned authority, one Mariah Cross who being first duly sworn states that she is a citizen of the Choctaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment, as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the Assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to any one for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Mariah Cross.

Subscribed and sworn to before me this 23rd day of September, 1915.

(Seal)

B. C. Newton, Notary Public.

My commission expires July 14, 1919.

ASSIGNMENT OF CLAIM.

I, Mariah Cross, allottee as shown above hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees, that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs so collected, and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 23rd day of September, 1915.

“Exhibit L-60.”

Mariah Cross.

C. A. Greenlees.

For his 61st cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length, and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff in the following sum, to-wit:

\$16.06 so paid defendant on the 3rd day of November, 1911, with interest thereon from said date at 6 per cent per annum until paid, being the sum \$3.84 and the further sum of \$21.33 so paid defendant on the 4th day of November, 1911, with interest thereon at 6 per cent per annum from said date

in the sum of \$5.08, and in the further sum of \$.... so paid defendant on the .... day of ..... with interest thereon at 6 per cent per annum from date in the sum of \$...., and in the further sum of \$.... so paid defendant on the .... day of ..... with interest thereon at 6 per cent per annum from said date, in the sum of \$..... The total sum herein demanded by plaintiff being \$37.39 principal and \$8.92 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-61 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or any one for him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 8 South, Range 2 East, Sections 5-6,  
Roll Y-72.  
Minnie Vail; Sex F; Blood 1-8; Age 1.

Section 5, Lot 3 less 3.06 A. for G. C. & S. F. R. R., SE 10 A. Lot 4, NE $\frac{1}{4}$  SW $\frac{1}{4}$  NW $\frac{1}{4}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$  less 5.96 A. for G. C. & S. F. R. R. N. 20.35 A. of Lot 4 and SW 10 A. Lot 4 and W $\frac{1}{2}$  SW $\frac{1}{4}$  NW $\frac{1}{4}$ ; 1909 tax \$13.38, paid 11-3-11; 1910 tax \$20.09, paid 11-4-11.

Section 6, SE $\frac{1}{4}$  SW $\frac{1}{4}$  NW $\frac{1}{4}$ ; 1909 tax \$2.68, paid 11-5-11; 1910 tax \$1.24, paid 11-4-11.

State of Oklahoma, Love County—ss.

Personally appeared before me the undersigned authority, one Will Vail, father of Minnie Vail, who being first duly sworn, states that Minnie Vail, a citizen of the Chickasaw Nation of the Five Civilized Tribes in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment, as shown by the tax rolls of Love County,

Oklahoma, a true copy and description as to said allotment being set forth hereinbefore and made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the Assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to any one for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay to one C. A. Greenlees, who is trustee for affiant to receive same.

Will Vail.

Subscribed and sworn to before me this 16th day of October, 1915.

(Seal)

F. W. Howell, Notary Public.

My commission expires January 22, 1919.

#### ASSIGNMENT OF CLAIM.

I, Will Vail, father of Minnie Vail, allottee as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own

name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs so collected herein, or shall return all of the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 16th day of October, 1915.

Will Vail.

C. A. Greenlees.

“Exhibit L-61.”

From his 62nd cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff in the following sums, to-wit:

\$26.70 so paid defendant on the 3rd day of November, 1911, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$6.40, and the further sum of \$15.91 so paid defendant on the 14th day of November, 1911, with interest thereon at 6 per cent per annum from said date in the sum of \$3.79, and in the further sum of \$. . . . so paid defendant on the . . . . day of . . . . with interest thereon at 6 per cent per annum from date in the sum of \$. . . ., and in the further sum of \$. . . . so paid defendant on the . . . . day of . . . . with interest thereon at 6 per cent per annum from said date in the sum of \$. . . .

The total sum herein demanded by plaintiff being \$42.61 principal and \$10.19 interest.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-62 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or any other one for him and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 8 South, Range 2 East, Section 6.  
Roll C-4678.

Vergia Vail; Sex F; Blood 1-8; Age 1.

SW $\frac{1}{4}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$ , Lots 1 and 2, N $\frac{1}{2}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$ ;  
1909 tax \$26.70, paid 11-3-11; 1910 tax \$15.91, paid 11-4-11.  
Total \$42.61.

State of Oklahoma, Love County—ss.

Personally appeared before me the undersigned authority, one Will Vail, father of Vergia Vail, who being first duly sworn states that Vergia Vail is a citizen of the Chickasaw Nation of the Five Civilized Tribes in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under a mistake of law, taxes, penalties and costs on said allotment, as shown by the tax rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid the respective sums so paid by the allottee, being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the Assessors and the County Treasurer of Love County, Oklahoma, in as-

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sessing, levying, extending, charging and demanding said tax and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottees, nor to any one for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Will Vail.

Subscribed and sworn to before me this 16th day of October, 1915.

My commission expires Jan. 22, 1919.

(Seal)

F. W. Howell, Notary Public.

#### ASSIGNMENT OF CLAIM.

I, Will Vail, father of Vergia Vail, allottee as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and costs so collected, and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event

he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of the contract are hereby accepted by the said C. A. Greenlees.

Dated this 16th day of October, 1915.

Will Vail.

C. A. Greenlees.

W. L. A.

“Exhibit L-62.”

For his 63rd cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff, who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff in the following sums, to-wit:

\$52.44 so paid defendant on the 11th day of November, 1911, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$12.66, and the further sum of \$..... so paid defendant on the ....day of ..... with interest thereon at 6 per cent per annum from said date in the sum of \$..... and in the further sum of \$..... so paid defendant on the ..... day of ..... with interest thereon at 6 per cent per annum from date in the sum of \$..... and in the further sum of \$..... so paid defendant on the..... day of ..... with interest thereon at 6 per cent per annum from said date, in the sum of \$..... The total sum herein demanded by plaintiff being \$52.44 principal and \$12.66 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. 163 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or anyone for him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 7 South, Range 1 West, Section.  
Roll C-1436.

Allottee, Charley Kernell, Sex M; Blood  $\frac{1}{2}$ ; Age 31.

$S\frac{1}{2}$   $SW\frac{1}{4}$   $NE\frac{1}{4}$   $S\frac{1}{2}$   $SE\frac{1}{4}$   $NW\frac{1}{4}$   $E\frac{1}{2}$   $SE\frac{1}{4}$   $SW\frac{1}{4}$   $S\frac{1}{2}$   
 $SW\frac{1}{4}$   $SE\frac{1}{4}$   $W\frac{1}{2}$   $SE\frac{1}{4}$   $SE\frac{1}{4}$ ; 1908 tax \$21.23, paid 11-11-11;  
1909 tax \$17.28, paid 11-11-11; 1910 tax \$13.93, paid 11-11-11.  
Total \$52.44.

State of Oklahoma, Love County, ss.

Personally appeared before me the undersigned authority, one Charley Kernell, who being first duly sworn, states that he is a citizen of the Chickasaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment, as shown by the Tax Rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the Assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to anyone for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Charley Kernell.

Subscribed and sworn to before me this 19th day of Oct. 1915.

W. L. Richards,

(Seal)

Court Clerk.

By Ona English, Deputy.

ASSIGNMENT OF CLAIM.

I, Charley Kernell, allottee, as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax penalty and costs collected herein, or that proportion of the tax, penalty and costs so collected, and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 19th day of Oct. 1915.

Charley Kernell,

C. A. Greenlees,

W. L. A.

"Exhibit L-63."

For the 64th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff, who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$128.80 so paid defendant on the 9th day of December, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$29.67, and the further sum of \$66.34, so paid defendant on the 30th day of December, 1911, with interest thereon at 6 per cent per annum from said date in the sum of \$15.18, and in the further sum of \$..... so paid defendant on the.... day of ..... with interest thereon at 6 per cent per annum from date in the sum of....., and in the further sum of \$..... so paid defendant on the ..... day of ....., with interest thereon at 6 per cent per annum from said date, in the sum of \$..... The total sum herein demanded by plaintiff being \$195.14 principal and \$44.85 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-64 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or anyone for him, and that said demand is just, true, due and wholly unpaid.

#### AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 9 South, Range 1 East, Section 25.  
Roll C-4944.

Allottee, Stella Reagan; Sex F; Blood 1-16; Age 16.

SW $\frac{1}{2}$  NW $\frac{1}{4}$ , less 6.18 A. for G., C. & S. F. R. R. Co.,  
NE $\frac{1}{4}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$ , W $\frac{1}{2}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$ ,  
NW $\frac{1}{4}$  SW $\frac{1}{4}$ , less 3.09 A. for G., C. & S. F. R. R. Co.,

SW $\frac{1}{4}$  SW $\frac{1}{4}$  Less 3.92 A. for G. C. & S. F. R. R.  
N $\frac{1}{2}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$ ; 1909 tax \$91.18, paid 12-9-11; 1910 tax  
\$37.62, paid 12-9-11; 1911 tax \$66.34, paid 12-30-11. Total  
\$195.14.

State of Oklahoma, Love County, ss.

Personally appeared before me the undersigned authority, one Stella Reagan, who being first duly sworn, states that she is a citizen of the Chickasaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment, as shown by the Tax Rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering for sale said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to anyone for him.

Wherefore affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to

pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Stella Reagan.

Subscribed and sworn to before me his 28th day of Sept. 1915.

John D. Lankford,  
Notary Public.

(Seal)

My commission expires Jan. 9, 1919.

#### ASSIGNMENT OF CLAIM.

I, Stella Reagan, allottee, as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expenses incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and costs so collected, and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 28th day of Sept. 1915.

Stella Reagan.

“Exhibit L-64.”

C. A. Greenlees.

For his 65th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and

every part of the same as a part of this cause of action as though set forth herein at length; and without this alleges and states that the defendant is indebted to plaintiff who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$54.37 so paid defendant on the 30th day of December, 1911, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$12.42 and the further sum of \$. . . . . so paid defendant on the . . . . day of . . . . . with interest thereon at 6 per cent per annum from said date in the sum of \$. . . . . and in the further sum of \$. . . . . so paid defendant on the . . . . . day of . . . . . with interest thereon at 6 per cent per annum from date in the sum of . . . . . and in further sum of \$. . . . . so paid defendant on the . . . . . day of . . . . . with interest thereon at 6 per cent per annum from said date in the sum of \$. . . . . The total sum herein demanded by plaintiff being \$54.37 principal and \$12.42 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-65 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or anyone for him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 9 South, Range 1 East, Section 25-35.  
Roll S-55.

Allottee, Waunete Reagan, Sex F; Blood 1-33; Age. 3.

Section 25, SE $\frac{1}{4}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$ , 1909 tax \$3.10, paid 12-30-11; 1910 tax \$3.84, paid 12-30-11; 1911 tax \$3.26, paid 12-30-11. Section 25, Lot 1 & Lot 3, less .85 A. for G. C. & S. F. R. R. Co., 1909 tax \$20.16, paid 12-20-11; 1910 tax \$8.87, paid 12-30-11; 1911 tax \$15.14, paid 12-30-11. Total \$54.37.



State of Oklahoma, Love County, ss.

Personally appeared before me the undersigned authority, one Walker Reagan, father and next friend, of Wau-neta Reagan, who being first duly sworn, states that Wau-neta Reagan, a citizen of the Chickasaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said tribes referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment, as shown by the Tax Rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid, the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax, and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to anyone for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Walter Reagan.

Subscribed and sworn to before me this 28th day of September, 1915.

(Seal) John D. Lankford,  
Notary Public.  
My commission expires Jan. 9th, 1919.

ASSIGNMENT OF CLAIM.

I, Walker Reagan, father and next friend, allottee, as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and costs so collected, and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 28th day of Sept., 1915.

“Exhibit L-65.”

Walker Reagan.  
C. A. Greenlees.

For his 66th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length, and without this alleges and states that the defendant is indebted to plaintiff who

is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$179.41 so paid defendant on the 6th day of November, 1911, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$43.24, and the further sum of \$..... so paid defendant on the .....day of ....., with interest thereon at 6 per cent per annum from said date in the sum of \$.... and in the further sum of \$..... so paid defendant on the ..... day of ....., with interest thereon at 6 per cent per annum from said date, in the sum of \$..... The total sum herein demanded by plaintiff, being \$179.41 principal and \$45.24 interest thereon.

By reference, plaintiff pleads all the matters alleged and set forth in Exhibit No. L-66 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or anyone for him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 9 South, Range 1 East, Section 22-26.  
Roll C-1474.

Allottee, Eugene Stewart, Sex M; Blood  $\frac{1}{4}$ ; Age 17.

Section 22, Lots 3, 4, 5, Section 26, NE $\frac{1}{4}$  NE $\frac{1}{4}$  of NW $\frac{1}{4}$  NE $\frac{1}{4}$  NW $\frac{1}{4}$ , E $\frac{1}{2}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$ , NE $\frac{1}{4}$  East 15.55 A of Lot 2, SW $\frac{1}{4}$  NW $\frac{1}{4}$  NW $\frac{1}{4}$ , 1909 tax \$123.98, paid 11-6-11; 1910 tax \$54.43, paid 11-6-11. Total \$179.41.

State of Oklahoma, Love County, ss.

Personally appeared before me the undersigned authority, one Eugene Stewart, who being first duly sworn, states that he is a citizen of the Chickasaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said Tribes referred to and

made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties, and costs on said allotment, as shown by the Tax Rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and acts of the authorities of the State of Oklahoma, and the unlawful and unauthorized acts and threats of the assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years and that the sums so collected have not been returned to allottee, nor to anyone for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love County, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Eugene Stewart.

Subscribed and sworn to before me this 5th day of Oct. 1915.

(Seal)

W. J. Gray,  
Notary Public.

My commission expires Jan. 20th 1919.

#### ASSIGNMENT OF CLAIM.

I, Eugene Stewart, allottee, as shown above, hereby assign and transfer the above demand and chose in action

due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and costs so collected and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted thereon within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 5th day of Oct. 1915.

Eugene Stewart,

C. A. Greenlees,

“Exhibit L-66.”

W. L. A.

For his 67th cause of action herein plaintiff refers to paragraphs one, two and three hereof, and pleads each and every part of the same as a part of this cause of action as though set forth herein at length and without this alleges and states that the defendant is indebted to plaintiff, who is the owner of this claim, as for money had and received, and which demand defendant heretofore promised to repay plaintiff, in the following sums, to-wit:

\$71.70 so paid defendant on the 1st day of November, 1911, with interest thereon from said date at 6 per cent per annum until paid, being the sum of \$17.18 and the further sum of of \$.... so paid defendant on the.... day of ....., with interest thereon at 6 per cent per annum

from said date in the sum of \$.... and in the further sum of \$.... so paid defendant on the .... day of ....., with interest thereon at 6 per cent per annum from date in the sum of \$.... and in the further sum of \$.... so paid defendant on the .... day of ..... with interest thereon at 6 per cent per annum from said date, in the sum of \$..... The total sum herein demanded by plaintiff being \$7170 principal and \$17.18 interest thereon.

By reference, plaintiff pleads all the matter alleged and set forth in Exhibit No. L-67 hereto attached, filed herewith and made a part hereof as though set forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff. Plaintiff further alleges that no part of said claim has been paid him or anyone for him, and that said demand is just, true, due and wholly unpaid.

AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Township 9 South, Range 1 East, Section 23.

Roll C-1473.

Allottee, Mary Francis Stewart, Sex F; Blood  $\frac{1}{2}$ ;  
Age 53.

SE $\frac{1}{4}$ , 1909 tax \$43.03, paid 11-1-11; 1910 tax \$28.77,  
paid 11-1-11. Total \$71.70.

State of Oklahoma, Love County, ss.

Personally appeared before me the undersigned authority, one Mary Francis Stewart, who being first duly sworn, states that she is a citizen of the Chickasaw Nation of the Five Civilized Tribes, in fact, and as shown by the above copy of the Roll of Citizenship of said Tribe referred to and made a part of this affidavit, and who paid under a mistake of law and fact, taxes, penalties and costs on said allotment, as shown by the Tax Rolls of Love County, Oklahoma, a true copy and description as to said allotment being set forth hereinbefore, and now made a part of this affidavit, said allotment being owned by the allottee at the time said assessments are shown, and paid the respective sums so paid by the allottee being paid under duress and fear engendered in him by reason of the unlawful and unauthorized threats and act of the authorities of the State of Ok-

lahoma, and the unlawful and unauthorized acts and threats of the Assessors and the County Treasurer of Love County, Oklahoma, in assessing, levying, extending, charging and demanding said tax and in threatening to sell, in advertising for sale and offering to sell said lands and in selling like Indian lands for failure to pay said tax, penalty and costs, and said allottee believing because of said enumerated acts and threats that said allotment would be sold for the non-payment of said tax did pay the tax, penalty and costs so assessed. That said payment was without authority of law, and that said lands were, in fact, non-taxable for said years, and that the sums so collected have not been returned to allottee, nor to anyone for him.

Wherefore, affiant prays the Honorable Board of County Commissioners of Love Count, Oklahoma, to refund said tax and all his legal demand arising therefrom, and to pay same to one C. A. Greenlees, who is trustee for affiant to receive same.

Mary Francis Stewart.

Subscribed and sworn to before me this 6th day of Oct. 1915.

W. J. Gray,  
Notary Public.

(Seal)

My commission expires Jan. 20th 1919.

#### ASSIGNMENT OF CLAIM.

I, Mary Francis Stewart, allottee, as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love County, Oklahoma, to C. A. Greenlees, who is hereby holder of the legal title to same, and is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty

and costs collected herein or that proportion of the tax, penalty and costs so collected and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

Dated this 6th day of October, 1915.

Mary Francis Stewart.

C. A. Greenlees.

“Exhibit L-67.”

W. L. A.

State of Oklahoma, Love County—ss.

W. L. Alexander, being first duly sworn, states on oath that he has examined the tax rolls of Love County, Oklahoma, for the years 1908-1909-1910-1911-1912, and has examined the enrollment records of Choctaw and Chickasaw citizens, on file in the office of the County Clerk of said county, showing roll number, degree of blood, age, name of the respective allottees thereon and description of their lands within Love County, and is familiar with said records. That he has compared the within claim with the respective items listed and set forth therein from Number L-1 to L-67, with the said Citizenship Roll and Tax Roll, and knows the contents and items of each claim, and that said claim and said enumerated items thereon are true, complete and correct copies of said rolls as shown, and that the sums therein set forth are the true sums paid as taxes to said County at the time and in amounts therein set forth, and that said sums total shown therein is just, true, due and unpaid claimants or anyone for them.

W. L. Alexander.

Subscribed and sworn to before me this 25th day of October, 1915.

(Seal)

J. I. Pittman, County Clerk,

Love County, Oklahoma.

Said claim is indorsed on the back as follows:

Coleman J. Ward et al. vs. Board of County Commissioners, Love County, Oklahoma,



State of Oklahoma, Love County, Claim Number 450.  
Filed October 25, 1915. Jno. I. Pittman, County Clerk,  
Love County, Oklahoma.

Afterwards, to-wit, said claim was acted on as follows:  
The within claim for \$10,164.24 after due hearing and  
careful consideration by the Board on motion made and  
duly seconded, which motion prevailed, was disallowed, this  
November 3rd, 1915.

E. G. McKinney, Chairman.

Attest:

Jno. I. Pittman, County Clerk.

The following endorsement also appears on the back  
of said claim:

Filed in the District Court Nov. 6, 1915. W. L. Rich-  
ards, Court Clerk.

And afterwards, to-wit, on the 4th day of November,  
1915, the claimant herein filed with the County Clerk of  
Love County, Oklahoma, the following appeal bond:

Before the Board of County Commissioners of Love  
County, Oklahoma.

Coleman J. Ward et al., by C. A. Greenlees, Trustee,  
Claimants, vs. The Board of County Commissioners of Love  
County, Oklahoma.

#### APPEAL BOND.

Whereas, on the 3rd day of November, 1915, the Board  
of County Commissioners of Love County, Oklahoma, on a  
day of the regular November, 1915, session of said Board,  
rejected and disallowed claim number 450, 1915 series, for  
\$10,164.24, filed by C. A. Greenlees, Trustee, Claimant, and  
filed on October 25th, 1915, in the office of the County Clerk  
of said County, and whereas, said claimants are aggrieved  
by the action of the said Board in rejecting said claim, and  
desire to appeal therefrom, now therefore the said C. A.  
Greenlees, as principal, and W. L. Alexander and G. E.

Sipes, sureties, are held and firmly bound to Love County, Oklahoma, in the penal sum of \$100.00, conditioned that appellants will prosecute this appeal to the District Court of Love County without delay, and will pay all costs that may be adjudged against claimants in the District Court in said cause.

Dated at Marietta, Love County, Oklahoma, this 4th day of November, 1915.

C. A. Greenlees, Trustee, Principal.

W. L. Alexander.

G. E. Sipe.

State of Oklahoma, Love County.

The within bond approved by me this 4th day of November, 1915.

(Seal)

Jno. I Pittman, County Clerk.

Filed Nov. 4, 1915. Jno. I. Pittman, County Clerk.

Endorsed: Filed in the District Court Nov. 6, 1915. W. L. Richards, Court Clerk.

Afterward, to-wit, on the 3rd day of December, 1915, the County Attorney, for and on behalf of the defendant, filed herein his demurrer, which demurrer is in words and figures as follows, to-wit:

In the District Court in and for Love County, State of Oklahoma. Hon. W. F. Freeman, Judge.

Coleman J. Ward, in his own behalf, and for and in behalf of sixty-six other persons similarly situated, by C. A. Greenlees, Trustee, plaintiffs, vs. The Board of County Commissioners of Love County, Oklahoma, defendants.

#### DEMURRER.

Now come E. G. McKinney, W. A. Gatlin and J. A. Fleming, constituting the Board of County Commissioners of Love County, Oklahoma, defendants herein, and demur and except to the petition of plaintiffs herein and say that the same does not state facts sufficient and is insufficient

in law to constitute a cause of action against these defendants, nor to entitle plaintiffs to the relief sought.

For special demurrer herein these defendants say that said petition of plaintiffs herein is insufficient in law to constitute a cause of action against these defendants for the reason that it appears from the face of said petition that each and every cause of action therein alleged and set forth is barred by the statute of limitation of this State.

Further specially demurring and excepting to the petition of plaintiffs herein these defendants say that the same does not state facts sufficient and is insufficient in law to constitute a cause of action against these defendants for the reason that it appears from said petition that this action is founded upon a tort and that the legal title in this action is vested in C. A. Greenlees as assignee of the other plaintiffs named therein, whereas a chose in action not arising from contract is non-assignable under the law.

Of all which defendants pray judgment of the Court.

B. C. Logsdon, Defendants' Attorney.

Endorsed on back as follows:

Filed in District Court Dec. 3, 1915. W. L. Richards,  
Court Clerk.

And thereafter, to-wit, on the 3rd day of December, 1915, the Court entered the following judgment:

In the District Court of Love County, State of Oklahoma.

Coleman, J. Ward, in his own behalf, and for and in behalf of sixty-six other persons similarly situated, by C. A. Greenlees, claimant, vs. The Board of County Commissioners of Love County, Oklahoma. No. 630.

#### JOURNAL ENTRY.

Now on this 3rd day of December, 1915, comes on the within cause upon the demurrer of the defendants, the claimants are present in person, and by their attorney, J. E. Bennett. The Board of County Commissioners of Love

County, and the County Attorney of Love County are present for and in behalf of Love County, and now the County Attorney of Love County presents his demurrer herein. And now J. E. Bennett, for said claimants, answers on said demurrer, for and in behalf of their trustee, and for and in behalf of each of said claimants, and now after due argument of counsel, and after due consideration of said cause, and after being duly advised the Court finds the issues of law on said demurrer to be with the claimants, and does order and adjudge that said demurrer be, and the same is by the Court denied and overruled, to which ruling the defendant duly excepted.

Now the County Attorney for Love County, Oklahoma, refuses to plead further in said cause, and now the claimants herein, by their attorney, J. E. Bennett, demands judgment for said claimants in the sum of \$10,164.24, and now the County Attorney having refused to plead further the Court enters judgment in favor of the claimants in this cause in the aforesaid sum, together with interest thereon from November 4, 1915, at 6 per cent per annum, and for all costs herein.

W. F. Freeman, District Judge.

Afterwards, to-wit, on the 3rd day of December, 1916, the same being immediately after the rendition of the judgment herein, the defendant filed herein its motion for new trial, which motion is in words and figures following, to-wit:

In the District Court of Love County, State of Oklahoma. Hon. W. F. Freeman, Judge.

Coleman J. Ward et al, plaintiffs, vs. The Board of County Commissioners of Love County, defendants.

Now come the defendants, The Board of County Commissioners of Love County, and move the Court to vacate and set aside the judgment rendered herein and to grant defendants a new trial for the following reasons, to-wit:

First. Because the Court erred in overruling the demurrer of defendants herein.

Second. Because the Court erred in rendering judgment for plaintiffs.

Third. Because the judgment rendered herein is contrary to law.

Of all which defendants pray judgment of the Court.

B. C. Logsdon, Defendants' Attorney.

Endorsed: Filed Dec. 3, 1915. W. L. Richards, Court Clerk. No. 630.

In the District Court in and for Love County, State of Oklahoma.

Coleman J. Ward et al. by C. A. Greenlees, trustee, plaintiffs, vs. Board of County Commissioners of Love County, Oklahoma, defendants. No. 630.

ORDER GRANTING TIME IN WHICH TO MAKE, SERVE AND FILE  
CASE MADE HEREIN.

On this the 3rd day of December, 1915, came on to be heard defendants' motion for a new trial herein, and the Court after hearing same and being well and sufficiently advised in the premises overrules said motion, to which the defendants excepted, and prayed an appeal to the Supreme Court, and asked for time in which it prepare, serve and file case-made herein, and the Court having heard same:

It is therefore ordered by the Court that the defendant be granted ninety days from this date in which to prepare, serve and file case-made; that the defendants be allowed ten days to suggest amendments, thereafter, and case-made to be settled upon five days' notice thereafter.

W. F. Freeman, District Judge.

Afterwards, to-wit, on the 21st day of February, 1916, the Court entered the following order:

In the District Court in and for Love County, Oklahoma.

Coleman J. Ward et al., plaintiffs, vs. Board of County Commissioners of Love County, Oklahoma, defendants.

On this the 21st day of February, 1916, came on to be heard the application of the defendant herein for an extension of time in which to make and serve case-made herein, and for good cause shown the time for making and serving case-made in the above entitled cause is hereby extended thirty days.

W. F. Freeman, District Judge.

Endorsed on back as follows:

Filed in District Court Feb, 23, 1916. W. L. Richards, Court Clerk.

Recorded Journal No. 2, at page 588.

Thereafter, to-wit, on the 30th day of March, A. D. 1916, the Court entered the following order, extending the time to make and serve case-made; which order is in the following figures and words:

In the District Court in and for Love County, Oklahoma.

Coleman J. Ward et al., plaintiffs, vs. Board of County Commissioners of Love County, Oklahoma, defendants. No. 630.

On this the 30th day of March, 1916, came on to be heard the application of the defendant herein for an extension of time in which to make and serve case-made herein, and for good cause shown the time for making and serving case-made in the above entitled cause is hereby extended thirty days.

W. F. Freeman, District Judge.

Endorsed on back as follows: Filed in District Court March 30, 1916. W. L. Richards, Court Clerk.

The above and foregoing contains and sets out fully and correctly all the pleadings filed in said cause; all mo-

tions filed or made, and all rulings and orders made thereon, and all exceptions taken by the defendants to such rulings and orders; the judgment of the Court and the exceptions of the defendant thereto, and the same is a true and correct statement, and a complete transcript of all the pleadings, motions, findings, judgment, and all proceedings had in said cause.

#### TENDER, SERVICE AND ACCEPTANCE.

In the District Court of Love County, State of Oklahoma.  
homa.

Coleman J. Ward, in his own behalf, and for and in behalf of sixty-six other persons, similarly situated, by C. A. Greenlees, trustee, claimants, vs. The Board of County Commissioners of Love County, Oklahoma, defendant.

To Hon. J. E. Bennett, Attorney for Claimants:

The above and foregoing transcript of the record is hereby tendered to and served upon you as a true and correct transcript in the above entitled cause, and as a true and correct statement and complete transcript of all the pleadings, motions, orders, findings, judgment and all pleadings had in the above entitled cause.

B. C. Logsdon, County Attorney for Defendant.

#### ACKNOWLEDGMENT OF SERVICE.

I hereby acknowledge and accept due, legal and timely service of the above and foregoing transcript of the record, in the above entitled cause, this the 28th day of April, A. D. 1916.

J. E. Bennett, Attorney for Plaintiff.

In the District Court in and for Love County, Oklahoma.

Coleman J. Ward, in his own behalf, and for and in behalf of sixty-six other persons, similarly situated, by C. A. Greenlees, claimants, vs. The Board of County Commissioners of Love County, Oklahoma, defendants. No. 630.

WAIVER OF AMENDMENTS TO TRANSCRIPT OF RECORD AND CON-  
SENTING THAT SAME MAY BE SETTLED WITHOUT  
FURTHER NOTICE.

Comes now the plaintiffs, claimants herein by their Attorney, J. E. Bennett, and waive suggestion of amendments to the within transcript of the records served on me in said matter on the 28th day of April, 1916; and waives further notice of the signing, certifying and settling of said record and agrees that same may be certified, signed and settled without further notice to me or to said claimants.

J. E. Bennett, Attorney for Claimants.

CERTIFICATE OF COURT CLERK.

State of Oklahoma, County of Love.

I, W. L. Richards, Court Clerk, in and for the County and State aforesaid do hereby certify that the foregoing is a true, full and complete transcript of all the proceedings and records in said cause, as the same appears on file and of record in my office, and that the same is true, correct, full and complete, and I hereby so certify.

Witness my hand and seal this 13th day of May, A. D. 1916.

(Seal)

W. L. Richards,  
Court Clerk, Love County, Oklahoma.

CERTIFICATE OF TRIAL JUDGE.

In the District Court in and for Love County, State of Oklahoma.

Coleman J. Ward, in his own behalf, and for and in behalf of sixty-six other persons, similarly situated, by C. A. Greenlees, trustee, claimants, vs. The Board of County Commissioners of Love County, Oklahoma, defendants. No. 630.

I, the undersigned, Judge of the Eighth Judicial District of the State of Oklahoma, hereby certify that the foregoing transcript of the record herein, have been duly served, and within due and proper time, and that notice of the time and place of presenting and settling same has been duly



given to the parties, and the defendant appeared by its attorney, B. C. Logsdon, County Attorney, and the plaintiff by their attorney, Mr. J. E. Bennett, and having filed herein his waiver of suggestions of amendments hereto, of notice of presentation of same, for signing and settlement, and his consent that the same be signed and settled as a true and correct transcript of the record in said cause.

I further certify that the above and foregoing, as set forth, is true and correct and contains a true and correct statement of all the pleadings, motions, orders, findings, proceedings and judgments had in said cause, and I hereby forth, is true and correct and contains a true and correct and hereby order that the Court Clerk attest the same with the seal of the Court and file the same of record.

Witness my hand at Ardmore, in Carter County, State of Oklahoma, this 13th day of May, A. D. 1916.

(Seal) W. F. Freeman, District Judge.

Attest: W. L. Richards, Court Clerk, Love County, Oklahoma.

Endorsed: Filed in District Court, May 13, 1916. W. L. Richards, Court Clerk, Love County, Oklahoma.

Thereafter, and on June 11, 1918, the following proceedings were had, to-wit:

"Supreme Court, June term, 1918, June 11th, 1918. First judicial day.

No. 8356. Board of County Commissioners, etc., vs. C. J. Ward, et al.

And now this cause comes on for final decision and determination by the Court upon the record and briefs filed therein.

And the Court having considered the same finds that the judgment of the lower court in the above cause should be reversed.

It is therefore ordered and adjudged by the Court that

the judgment of the lower court in the above cause be, and the same is hereby reversed. Opinion by Hardy, J. All the Justices concur.

In the Supreme Court of the State of Oklahoma.

The Board of County Commissioners of Love County, Oklahoma, plaintiffs in error, vs. Coleman J. Ward et al. and C. A. Greenlees, trustee, defendants in error. No. 8356.  
(Filed June 11, 1918. William M. Franklin, Clerk.)

SYLLABUS.

I.

In the absence of a statute imposing liability therefor a county is not liable for taxes wrongfully collected by a County Treasurer and by him paid over to the state or a municipal subdivision of the State other than the County against which liability is sought to be imposed.

II.

Where certain citizens of the Choctaw and Chickasaw Nations paid certain taxes assessed against their respective allotments, which were non-taxable, in order to avoid a threatened sale of their lands and in order to avoid the imposition of penalties thereon for failure to pay said taxes and where at the time of said payment there was pending litigation seeking to enjoin the collection of said taxes, and where at the time said parties were fully informed as to the law which made said taxes illegal and there was no immediate necessity for the payment of said taxes to prevent a seizure of the person or property of said persons, Held: that said payment was voluntary, and in the absence of statutory authority therefor cannot be recovered back.

Error from the District Court of Love County. W. F. Freeman, Trial Judge.

T. B. Wilkins, County Attorney of Love County, attorney for plaintiffs in error.

J. E. Bennett, attorney for defendants in error.

Opinion of the Court by Hardy, J.: This proceeding was commenced by defendants in error filing with the Board of County Commissioners of Love County a claim for refund of taxes alleged to have been erroneously paid to the County Treasurer of Love County. The claim was disallowed by the Board of County Commissioners and claimants appealed to the District Court where demurrer to the petition was overruled and judgment rendered in claimants' favor from which judgment this appeal is prosecuted.

Plaintiff in error contends that the Board of County Commissioners were without jurisdiction and authority to entertain or file a claim and order a refund of said taxes and that the District Court acquired no such jurisdiction upon appeal.

Section 14, Chapter 152, Session Laws 1911, undertook to confer upon the Boards of County Commissioners of the entertain or file a claim and order a refund of said taxes which had been erroneously assessed against property and paid. This section, in so far as it undertook to confer such power upon the Board of County Commissioners was held to be unconstitutional in *Johnson v. Grady County*, 150 Pac. 497, which holding has been adhered to in the following cases:

*Atoka Co. v. Oklahoma State Bank*, 161 Pac. 1087. *In Re Hickman* 162 Pac. 177. *Smith v. Board of Com'rs. Garvin Co.*, 162 Pac. 463. *In re Assessment First National Bank*, 166 Pac. 883.

Defendants in error say, however, that sections 1 and 2 of chapter 186 Session Laws, 1913, page 416, confers authority upon the Board of County Commissioners to allow and order paid the demands which form the basis of this litigation. These sections were not called to the attention of the Court nor considered in any of the decisions cited. Assuming that the contention of the defendants in error is correct the judgment of the District Court must be reversed for two reasons. First: When section 14 of chapter 152, Laws 1910-11,

was held to be invalid there existed no statute making the County liable for the full amount of taxes collected by the County Treasurer. When taxes are collected the County Treasurer makes settlement with the state and the various municipalities thereof, paying to each that portion of the taxes properly belonging to it and does not pay into the County Treasury any of the taxes collected by him except that portion which is properly payable to the County. The petition does not separate the taxes so as to show what portion was paid to the State and to the various municipalities respectively. While the petition alleges that Love County caused the County Treasurer to collect such taxes and seeks to hold the County for the full amounts paid by claimants there is no warrant in law for saying that the County should refund taxes which were not paid over to it.

There is another reason why claimants cannot recover because these taxes were voluntarily paid and were not paid under duress, coercion or compulsion such as would authorize their recovery back. It is alleged that claimants were citizens of the Choctaw and Chickasaw Nations of Indians and as such citizens had received allotments of the lands of such nations, which lands were non-taxable while the title thereto remained in the original allottee, but that notwithstanding the fact that said lands were non-taxable and in violation of the laws relating thereto said lands were assessed for taxation and taxes levied against them by the officers of Love County for the years 1908, 1909, 1910 and 1911 and for succeeding years. That upon said lands being assessed for taxation certain citizens of the Choctaw and Chickasaw Nations commenced an action in the Superior Court of Logan County to enjoin and restrain the tax officials from assessing their lands for taxation and from enforcing the collection of taxes levied thereon; that said litigation was finally prosecuted to a successful termination in favor of said citizens; *Choats v Trapp* 224 U. S. 665; that various other actions and proceedings were commenced in different courts to enjoin and restrain the collection of said taxes but that notwithstanding the pendency of said litigation Love County, through its officers in each of said

years did require claimants to pay to the Treasurer of said County the taxes levied upon their respective allotments and contended and threatened that if same were not paid the lands of claimants would be sold for non-payment thereof, and claimants fearing that said lands would be sold, and fearing that said lands were taxable, paid said taxes under protest to the County Treasurer of Love County and that said County Treasurer at the time well knew that said actions were still pending and undetermined in the State and Federal Courts wherein they sought to enjoin the collection of said taxes. It is further alleged that said taxes were paid for the purpose of preventing a heavy penalty provided by the laws of this State being imposed against claimants for non-payment thereof and that said taxes were paid in order to protect themselves from great loss and damage in the event such action which was pending to restrain the collection thereof was decided against them. These allegations contain in substance all of the material facts with reference to the manner of the collection and payment of taxes a refund of which is claimed herein.

In *Johnson v. Grady County, supra*, the action was to recover certain taxes paid to Grady County on lands allotted to a citizen of one of the Five Civilized Tribes. The payment in that case was held to be voluntary. Upon rehearing it was said:

“As to the second ground raised by plaintiff, relative to the recovery of taxes voluntarily paid, we note the distinction attempted to be drawn between an erroneous tax and an illegal tax; but we see no reason why we should recede from our former holding on this question, as our courts have spoken fully on that particular point and held against plaintiff's contention. See original opinion for authorities. The tax sought to be recovered in this case was paid upon land. It is difficult to see how a person could plead coercion or duress in the payment of such a tax. A tax upon personal property, or a franchise, might be coerced, but it appears impossible that such a contingency could arise in a land case,

and most assuredly no duress, coercion or even protest has been shown in this case."

In *Philips v. Board of Com'rs, Jefferson Co.*, 5 Kans. 247, money was paid to the County Treasurer to redeem tax sale certificates of lands sold for taxes which were Indian lands and not liable to assessment and taxation, and at the time the money was paid over the owner of the land denied the legality of the tax on the ground that the lands were not taxable and paid the money to prevent tax deeds which were then due from being made for said lands and under these circumstances it was held that the payment was voluntary and could not be recovered back. This holding was approved by the Supreme Court of the United States in *Lamborn v. Dickinson County Commissioners*, 97 U. S. 181, 24 L. Ed. 926, where, after referring to the case of *Phillips v. Jefferson County* and declaring its intention to follow that rule the Court referred to the fact that it had been held in other states (though perhaps not directly adjudged) that the payment of illegal taxes on land to avoid or remove a cloud upon the title arising from a tax sale was a compulsory payment and distinguished the case of *Stevens v. Daniels*, 27 Ohio St. 527 by calling attention to the fact that in that case plaintiff relied upon the provision of a local statute and that a legal tax was combined with an illegal assessment and that the sale would perhaps have conferred a valid title upon the purchaser. The Court further said:

"Where such would be the effect of a tax sale, we cannot doubt that a payment of the tax, made to prevent it, should be regarded as compulsory and not voluntary. The threatened divestiture of a man's title to land is certainly as stringent a duress as the threatened seizure of his goods; and if imminent, and he has no other adequate remedy to prevent it, justice requires that he should be permitted to pay the tax, and test its legality by an action to recover back the money, but as, in general, an illegal tax cannot furnish the basis of a legal sale, the case supposed cannot often arise. If the legality of the tax is merely doubtful, and the validity of

the sale would depend on its legality, according to the law of Kansas, the party, if he chooses to waive the other remedies given him by law to test the validity of the tax, must take his risk either voluntarily to pay the tax and thus avoid the question, or to let his land be sold, at the hazard of losing it if the tax should be sustained. Having a knowledge of all the facts, it is held that he must be presumed to know the law, and in the absence of any fraud or better knowledge on the part of the officer receiving payment, he cannot recover back money paid under such mistake."

The question was again considered by the Supreme Court in the case of *Union Pacific Railroad Co. v. Dodge County Commissioners*, 98 U. S. 541, 25 L. Ed. 196, where, after quoting from the case of *Wabaunsee County v. Walker*, 8 Kans. 431, the following language was used:

"Where a party pays an illegal demand with a full knowledge of all the facts which render such demand illegal, without an immediate and urgent necessity therefor, or unless to release his person or property from detention, or to prevent an immediate seizure of his person or property such payment must be deemed voluntary and cannot be recovered back. And the fact that the party at the time of making the payment files a written protest does not make the payment involuntary."

The Court expressed its approval of the rule stated thus:

"This, as we understand it, is a correct statement of the rule of the common law. There are, no doubt, cases to be found in which the language of the court, if separated from the facts of the particular case under consideration, would seem to imply that a protest alone was sufficient to show that the payment was not voluntary; but on examination it will be found that the protest was used to give effect to the other attending circumstances."

And after reviewing a number of decisions the Court put the question tersely thus:

“The real question in this case is, whether there was such an immediate and urgent necessity for the payment of the taxes in controversy as to imply that it was made upon compulsion.”

Attention was then called to the fact that though the Treasurer had a warrant in his hand no demand had been made for the payment of the taxes nor seizure of the property had occurred, and the Court quoted with approval the language of Chief Justice Shaw in *Preston v. Boston*, 12 Pick. 14:

When, therefore, a party not liable to taxation is called upon peremptorily to pay upon such a warrant, and he can save himself and his property in no other way than by paying the illegal demand, he may give notice that he so pays it by duress and not voluntarily, and by showing that he is not liable, recover it back as money had and received.

The petition herein contains no allegation that the County Treasurer held a warrant in his hands for the collection of any taxes owed by claimants nor that any property owned by them was about to be seized to enforce collection thereof. Indeed in the sale of land for taxes no warrant is issued nor is the land seized but the County Treasurer simply advertises the land and sells same according to the provisions of Chap. 72, Art. 9, Rev. L. Okla, 1910.

The allegations make it plain that the taxes were paid before the termination of the litigation which sought to enjoin the collection thereof and that the motive which impelled plaintiffs to pay same was the fear that their contention that the lands were non-taxable might be decided adversely to them and if not paid, added penalties would be imposed for non-payment; and while it is alleged that the County Treasurer had threatened to sell said land, yet a sale thereof under an illegal tax would not have divested claimant's title and the purchaser at the tax sale would be compelled to re-



sort to an action for possession and claimants would have successfully defended against such action by showing the illegality of the tax which formed the basis of the sale. Claimants were familiar with all the provisions of the laws and treaties which exempted their lands from taxation and the sole contention between them and the taxing officers was whether under the law said lands were subject to taxation. In determining whether taxes have been paid voluntarily or under compulsion it is not enough to say that they have been paid unwillingly and only as a choice between evils, and when it is sought to recover back a payment as having been made under compulsion it is generally necessary to show that payment was made to relieve either person or property from the power of the officers, or to prevent a seizure of the person or property unless this rule has been changed by statute, and such was not the situation of claimants.

2 Cooley Taxation (3rd Ed.) 1501.

For the reasons given the judgment is reversed. All the Justices concur.

Thereafter defendants filed their petition for a rehearing, in words and figures as follows:

In the Supreme Court of the State of Oklahoma.

Board of County Commissioners of Love County, Oklahoma, plaintiff in error, vs. Coleman J. Ward et al., defendants in error. No. 8356.

Filed June 25, 1918. William M. Franklin, Clerk.

#### PETITION FOR REHEARING.

The defendants in error show to the Court that on June 11, 1918, a decree and judgment was rendered herein by this Court, reversing the trial court and its judgment heretofore rendered in their favor; and further that the effect of such decree and judgment of this court makes a final disposition of

the cause adverse to these defendants in error, and in denial of vested rights secured under treaties between the United States and Indian citizens which are protected by the Constitution of the United States and Acts of Congress, and approved and enforced by the Supreme Court thereof.

The said judgment and decree herein is contrary to the law as enunciated by *A. T. & S. F. Ry. Co. v. O'Connor*, 223 U. S. 280 (which decision was not heretofore called to this Court's attention). And it is evident that such judgment and decree is based upon cases which have been repudiated, overruled and become obsolete, as hereafter shown, and such judgment and decree being in denial of valuable vested rights of the Indian citizens, the defendants for the reasons set out herein, ask that a rehearing be granted by this court, and said judgment and decree be set aside to the end that just and proper recognition and enforcement of such rights may be had.

That there are two propositions upon which the decree and judgment is based as shown in the opinion of Mr. Justice Hardy:

(1) The county could not be liable for the entire amount paid to it by the Indian citizens for the reason, as expressed, that the county also collects tax money for its subdivisions, townships and school districts, as well as for the state.

(2) That the money was voluntarily paid by the Indian citizens to the county, therefore cannot now be recovered back.

The first proposition, that the trial court must be reversed because the county is not liable for money collected which belongs to township, school, school district and state, is based upon an *assumption* that is not borne out by the facts in the record.

The allegations of the petition were all admitted by the county to be true and nowhere do we find that the admitted facts show that any of this money so obtained was for the

use and benefit of any other than the county. The petition plainly states (page 4 of record) that the demand was that the Indian citizens "*pay to said county as taxes, said sums*" (page 9 of record), that "*Love County through its said officers in each of said years did require of the said Choctaw and Chickasaw citizens to pay the Treasurer of said County of Love, etc.; on page 11 of record that 'Love County has obtained from claimants without authority of law the sums of money set out.'*" There are no allegations which can be construed to negative the fact *that all the money* which is claimed here was had, obtained and used for the sole and exclusive use of Love County.

Defendants in error feel that the Court overlooked these agreed facts and based the judgment and decree as to this particular proposition inadvertently upon the *wrong assumption* that other money than that had for and by Love County was contained in the amounts set out.

In the second proposition, that the money was voluntarily paid by the Indian citizens and therefore cannot be recovered back, the court overlooked the fact that the decisions cited in the opinion and relied upon to sustain its position have been repudiated by the courts which gave them existence, and further that such position is expressly contrary to the law as enunciated by the United States Supreme Court in *A. T. & S. F. Ry. Co. v. O'Connor*, 223 U. S. 280, which case was not heretofore called to this court's attention.

The defendants in error contend that this court overlooked:

- (1) That the fact that the money in question was exacted from Indian citizens contrary to the plan and policy of the Federal Government in dealing with such Indians and their land; and

- (2) That the exaction of the money was in contravention of the rights secured under the treaty between the United States and the Indians, contained in Act of Congress, approved June 28, 1898, 30 U. S. Stat. at L. 495.

(3) That there was no power to tax those lands, and hence no tax upon them existed in fact, according to the holding in *Choate v. Trapp et al.*, 224 U. S. 665, and the companion case determined at the same time.

(4) That the question presented herein is of Federal cognizance and must be determined under and in accordance with the Federal Law, and the decisions of the Federal Courts.

(5) That money paid under conditions like those in this case has been determined by the United States Supreme Court not to be voluntary, but to have been made under coercion. *A., T. & S. F. Ry. Co. v. O'Connor*, 223 U. S. 280.

(6) That the decision denies the vested rights of claimants herein protected by Section 10, Article 1 of the Federal Constitution, and by the Fifth Amendment thereto, which rights were adjudged favorably to them in *Choate v. Trapp*, 224 U. S. 665 and companion cases, and that protection extends to the remedy here invoked for the violation thereof.

(7) That the claimants herein, by said decree and judgment herein are deprived of their property without due process of law in violation of the Fourteenth Amendment to the Federal Constitution.

The treaty exemption provided by the Choctaw-Chickasaw Treaty in common with all treaty provisions of the Five Civilized Tribes constitute irrepealable contracts of exemption protected by the tenth paragraph of the First Article of the Federal Constitution. The injuries here complained of has aspects: First, that the breach of the Choctaw-Chickasaw Treaty involves an Indian question, and, second, that independent of the Indian question the acts complained of violate a contract protected by the Federal Constitution.

*Choate v. Trapp*, 224 U. S. 665.

*Richardson v. English*, 224 U. S. 680.

*Gleason v. Wood*, 224 U. S. 679.

*New Jersey v. Wilson*, 7 Cranch 164.

*Ohio Life Insurance Company v. DeBolt*, 15 Howard 416.

*State Bank v. Knoop*, 16 Howard 369.

*Gordon v. Appeal Tax Court*, 3 Howard 133.

*Given v. Wright*, 117, U. S. 648.

*Rector of Christ Church v. Philadelphia*, 24 Howard, 300.

*Armstrong v. Treasurer of Athens County*, 16 Peters 281.

*Home of the Friendless v. Rouse*, 8 Wallace 430.

*Tomlinson v. Jessup*, 15 Wallace 82.

*Keiffer Branch Bank v. Skelly*, 66 U. S. 1.

The constitutional prohibition forbidding the passage by the state of any law impairing the obligation of contracts embraces all contracts executed or executory, whether between private corporations, or between the states and individuals or corporations.

*Green v. Riddle*, 8 Wheaton 1.

*Fletcher v. Peck*, 6 Cranch 87.

*McGee v. Mathis*, 4 Wallace 143.

The protection of the Federal Constitution extends to the preservation, recognition and application of remedies for breach of the terms of the contract. The obligation of a contract is that which obliges a party to perform his contract or repair the injury done by a failure of performance, and as regards the remedy, it may be modified by the legislature, but not entirely abolished, for on substituting one remedy for another they must afford a reasonable remedy. An act which wholly extinguishes all existing remedies so as to leave no redress, and no means of enforcing the contract would be operation *in presenti*, impair its obligations. The taxing laws of Oklahoma put in operation herein, wrongfully exercised in violation of all laws, deprived the claimants here of their property, and to deny them relief for a vested contract right, which is clearly violated, is to deny them as Indian citizens all benefits of their treaty contract, as well as to deny them as citizens of the United States the protection of the Federal Constitution.

- Bronson v. Kinzie*, 1 Howard, 311.  
*White v. Hart*, 13 Wallace 80.  
*Green v. Riddle*, 5 Peters 369, S. C., 8 Wheaton 1.  
*Von Hoffman v. Quincey*, 4 Wallace 552.  
*Ogden v. Saunders*, 12 Wheaton 231.  
*Fletcher v. Peck*, 6 Cranch 87.  
*Terrett v. Taylor*, 9 Cranch 87.  
*Sturgis v. Crownshield*, 4 Wheaton 122.  
*Beers v. Haughton*, 9 Peters 359.  
*McCracken v. Haywood*, 2 Howard 612.  
*Planters Bank v. Sharp*, 6 Howard 327.

The prohibition against the impairment of contracts extends to judicial construction, denying such protection.

- Ohio Life Insurance & Trust Co. v. DeBolt*, 16 Howard 57.  
*Myers v. City of Muscatine*, 1 Wallace 384.  
*Thompson v. Lee County*, 3 Wallace 327.  
*Commissioners of Knor County v. Aspinwall*, 21 Howard 545.

By Section 6 of Article 10 of the Constitution of Oklahoma, the state made itself a party to the contract of exemption between the Indians and the Federal Government, and this decision permits the state to repudiate that contract, and denies the claimants protection of their rights thereunder.

The court in this case overlooks the rule of law that where an Indian's rights are in question under an act of Congress according him rights, that the Federal laws supercede the State laws, since the judgment in this case construes the Indian's rights under a state rule purporting to deny him refund on the 'voluntary payment' theory, when, in fact, his rights are determined not by a harsh rule of forfeiture, but one of liberality looking to the protection of his rights as a ward of the Federal Government.

- Jefferson v. Winkler*, 26 Okla. 653, 110 Pac. 755.  
*Kirkpatrick v. Burgess*, 29 Okla. 121, 116 Pac. 864.

*Wilson v. Morton*, 29 Okla. 745, 119 Pac. 213.  
*Wilson v. Greer*, 151 Pac. 629 (Okla.)  
*Walker v. Brown*, 43 Okla. 144, 141 Pac. 681.  
*Barber v. Brown*, 154 Pac. 1156 (Okla.)  
*Brock v. Keifer*, 157 Pac. 188 (Okla.)  
*Dodson v. Brewer*, 159 Pac. 329 (Okla.)  
*Bell v. Fitzpatrick*, 157 Pac. 334 (Okla.)  
*Marecy v. Board of Com'ers*, 45 Okla. 1, 144.  
Pac. 611.  
*Schuck v. Sweet*, 45 Okla. 51, 145 Pac. 388.

In holding that the sums involved in this controversy may not be recovered except under authority of statute, the court overlooked controlling decisions of the Supreme Court of the United States wherein it was said that liability may be incurred by a county independent of statute, and that if a county obtain money or property of another without authority, the law *independent of any statute* will compel restitution or compensation.

*Marsh v. Fulton County*, 10 Wallace 684.  
*Chapman v. County of Douglass*, 107 U. S. 348.  
*Louisiana v. Wood*, 102 U. S. 294.  
*Litchfield v. Ballou*, 114 U. S. 190.

In holding that the payments in this case are voluntary and in holding that claimants' demands are not recoverable because paid voluntarily, the court overlooks that by the pleadings here made, the case being on demurrer, it is admitted payments were not voluntarily paid, but were in fact paid under duress, coercion and compulsion (see record, pp. 4, 5, 6, 7, 8, 9, 10). There is no issue of fact on this point, and it is respectfully urged that the allegations of the petition are the agreed facts in this case.

In the opinion it is said: "It is further alleged that said taxes were paid for the purpose of preventing a heavy penalty, provided by the laws of this state being imposed against claimants for non-payment thereof, and that said taxes were paid in order to protect themselves from loss and damage in the event that such action which was then

pending to restrain the collection thereof was decided against them. These allegations contain in substance all of the material facts with reference to the manner of collection and payment of the taxes and refund of which is claimed herein." And in concluding the opinion, we find the following language:

"In determining whether taxes have been paid voluntarily or under compulsion, it is not enough to say that they have been paid unwillingly and only as a choice between two evils, and when it is sought to recover back a payment as having been made under compulsion it is generally necessary to show that payment was made to relieve either person or property from the power of the officers as to prevent a seizure of his person or property unless this rule has been changed by statute, and such was not the situation of claimants."

The foregoing state of facts existed in the case of *A., T. & S. F. Ry. Co. v. O'Conner*, 223 U. S. 280, where the court said that the railway company was not called upon to take the risk of having its contract destroyed and its business injured and of finding its tax more or less nearly doubled if it did not pay the tax imposed, because the railway company could have no certainty of ultimate success in an action to set aside the tax levied, and therefore justice required that it should be at liberty to avoid those disadvantages by paying promptly and bringing suit to recover back the amounts so paid.

In the present case the Indian citizens had already brought suits to prevent the imposition of the void tax, but the state courts had denied relief (*Gleason v. Wood*, *Choate v. Trapp*, *Alexander v. Rainey*, *English v. Richardson*, 28 Okla. 502, 518, 408), and they had no certainty of ultimate success. Then most assuredly justice required that they should be at liberty to avoid the disadvantages of having the alleged tax doubled by the heavy penalties imposed by state law and of having their lands sold for delinquent taxes, by paying the amounts levied and bring-



ing suit to recover it back, according to the view of the United States Supreme Court in the above mentioned case. The court promises that he can assert his right on equal terms.

We quote from the opinion by Mr. Justice Holmes on pp. 285-286:

"It is reasonable that a man who denies the legality of a tax should have a clear and certain remedy. The rule being established that apart from special circumstances he cannot interfere by injunction with the State's collection of its revenues, an action at law to recover back what was paid is the alternative left, of course, we are speaking of those cases where the State is not put to an action if the citizen refuses to pay. In these latter cases he can interpose his objections by way of defense, but where, as is common, the State has a more summary remedy such as distress, and the party indicates by protest that he is yielding to what he cannot prevent, the courts sometimes perhaps have been a little too slow to recognize the implied duress under which payment is made.

"But even if the State is driven to action, if at the same time the citizen is put to a serious disadvantage in the assertion of his legal, in this case his constitutional rights, by defense in the suit, justice may require that he should be at liberty to avoid those disadvantages by paying promptly and bringing suit on his side. He is entitled to assert his supposed right on reasonably equal terms.

"In this case the law, besides giving an action of debt to the State, provides that every corporation that fails to pay the tax shall forfeit its right to do business within the state until the tax has been paid, and also shall pay a penalty of ten per cent for every six months or fractional part of six months of default after May 1st of each year. It may be that the forfeiture of the right to do business would not be authoritatively established except by a *quo warranto* pro-

vided for in the following section, but before or without the proceedings the effect of the foreclosure clause upon the plaintiff's subsequent contracts and business might be serious, and in any event the penalty would go on accruing all the time that might be spent before the validity of the defense could be adjudged. As appears from the decision below, the plaintiff could have no certainty of ultimate success, and we are of the opinion that it was not called upon to take the risk of having its contracts destroyed and its business injured and of finding the tax more or less nearly doubled in case of it finally had to pay. In other words, we are of the opinion that the payment was made under duress."

It is to be seen that the case at bar comes fully within the O'Conner case, 223 U. S. 280, and it must be born in mind that the present situation is one of Federal cognizance. This has been recognized and conceded in *Walker v. Brown*, 43 Okla. 144, where it is said that the state cannot legislate for an Indian of the Five Civilized Tribes for the reason that Congress has reserved the right to legislate for him as a dependent people and that certain state laws which are applicable to every other citizen are not in force as against or pertaining to Indians of the Five Civilized Tribes, and in Oklahoma in some matters (discussing Indian allotments) we have two classes of citizens and two legislative sovereignties.

The court further says that to give effect to a certain Oklahoma Statute would have the effect of interfering with the policy of Congress towards the Indians.

In the case at bar it is an interference with the plan and policy of the Federal Government to retain money wrongfully exacted from the Indian citizen. See also:

*United States v. Allen*, 173 Fed. 13.

*Schock v. Sweet*, 45 Okla. 59.

The court in its opinion refers and relies upon *Phillips v. Com'rs of Jefferson County*, 5 Kan. 412; *Wauban-*

*ses County v. Walker*, 8 Kan. 431; *Lambourn v. Dickinson County*, 97 U. S. 181; and *Union Pac. Ry. Co. v. Dodge County*, 98 U. S. 541; but these cases of forty years and more ago do not control in the case at bar; anything contained in such cases contrary to a right of recovery in the instant case has been repudiated and overruled.

Both of these cases and also *Kansas Pac. Ry. Co. v. Wyandotte*, 16 Kan. 587, are referred to in *Lambourn v. Dickinson County*, 97 U. S. 181; and it seems that plaintiff in error lays a great deal of stress upon this federal case.

*Lambourn v. Dickinson County*, *supra*, was decided in 1878, and the United States Supreme Court arrived at its judgment because the Supreme Court of Kansas had, prior to that time, decided that way; the court, after referring to *Phillips v. Jefferson*, 5 Kan. 412, said:

"It seems to us that this case is precisely parallel with the one before us. We are unable to perceive any distinction between them. And as it is the law of Kansas, which we are called upon to administer, the settled decisions of its Supreme Court, upon the very matter, are entitled to highest respect. We are not aware of any decision which tends to shake "the authority" of *Phillips v. Jefferson County*. On the contrary, the same views have been subsequently reiterated in other cases. In *Waubensee County v. Walker*, 8 Kan. 431, a case precisely like that of *Phillips v. Jefferson County*, except," etc.

The opinion also refers to *Kansas Pac. Ry. Co. v. Wyandotte County Com'rs*, 16 Kan. 587. So we are shown that the Supreme Court of the United States based its decision in *Lambourn v. Dickinson County* upon what the Supreme Court of Kansas had held up to that time—1878.

Since these three Kansas cases were decided and since the Supreme Court of the United States decided the *Lambourn* case in conformity with the holding up to that time of the state court, the Supreme Court of Kansas has been called upon several times to decide cases involving the same

legal proposition and we find in *Ottawa University v. id.* *Com'ers of Franklin County*, 116 Pac. 892, decided in 1911, that all the prior decisions in that state are reviewed.

The Supreme Court in the *Ottawa University* case refers to *Phillips v. Jefferson, Waubensee County v. Walker, Kansas Pac. Ry. Co. v. Wyandotte* and several other cases subsequently decided and endeavors to harmonize them and at the conclusions of the lengthy discussion, the court arrives at the contrary conclusion. The Supreme Court of Kansas had before it the proposition as to what constituted a voluntary payment, coercion in relation to tax payments on real property, and the right to recover money paid as taxes on lands exempt from taxation.

The Kansas case held that a payment of money very like the circumstances in the cases of the Indian citizens was not voluntary, and it further held that if the taxes were illegal that they should be repaid, and further the Kansas court held that there could be coercion with relation to real property as well as personal.

This is the last word from the State of Kansas, and if the Kansas cases quoted by the plaintiff in error, which were decided some thirty or forty years ago, hold in accordance with the contentions of the plaintiff in error, they are now repudiated by the Supreme Court of Kansas and overruled in the late case of *Ottawa University v. Franklin County, supra*.

.. So, in case of *Lambourn v. Dickinson County*, 97 U. S. 181, decided in 1878, being based solely upon what was then the settled law of Kansas, is not binding now, effective, or in any manner persuasive, because the reason as expressed in that case as to why it was so decided has been wiped out by the later decisions of the Supreme Court of Kansas. Therefore, the case of *Lambourn v. Dickinson County* has long since spent its force and cannot now be considered as enunciating the law of Kansas or any law now existing.

Then again this case should be compared with and

considered in connection with what the Supreme Court of the United States held and enunciated in *A., T. & S. F. Ry. Co. v. O'Conner*, 223 U. S. 280, some thirty-five years later.

In the other Federal decision referred to by the court, *Union Pac. Ry. Co. v. Dodge County*, 98 U. S. 541, the court was again construing the state law, that of Nebraska, and the decision refers to and is based upon *Lambourn v. Dickinson County*, 97 U. S. 181, and *Waubensee County v. Walker*, 8 Kan. 431, and is therefore entitled to no more consideration than is accorded the early Kansas cases by the late case of *Ottawa University v. Franklin County* 116 Pac. 892, decided in 1911.

The second paragraph of the syllabus in *Ottawa University v. Franklin County*, *supra*, reads as follows:

"An incorporated institution of learning owned a tract of land comprising approximately thirty-three acres, which is used exclusively for educational purposes. By proceedings regular in form the excess above ten acres was taxed for the year 1908. On July 31, 1909, the county treasurer gave notice to the owner that if the taxes, which were delinquent were not paid, the land taxed would be advertised for sale. Thereupon the owners paid the taxes and accrued penalties, protesting at the time that they were illegal and that they were paid for the purpose of saving the land from sale. When payment was made the owner had full knowledge of all of the facts regarding the invalidity of the taxes, and had been advised that they were illegal. The tax sale could not have accrued until the first Tuesday in September following the payment, and a tax deed would not have been issued until three years after the sale, during which time the owner's possession would not have been disturbed. *Held*, the payment was not voluntary, and the amount of illegal taxes may be recovered."

After discussing the early Kansas cases we have just

referred to and upon which this court relied, the Kansas court discusses the question of voluntary and involuntary payment and says there is no difference of rule in respect to involuntary payment of taxes upon real property and personal property, the question in each instant being whether the will of a taxpayer was constrained. Thus, this Kansas case while determining that there may be coercion and duress with relation to real property, as well as personal property lays down the proposition that threatened cumulative burdens upon the property involved, and inconveniences in the exercises of lawful right may be considered as matters of coercion. This exactly in accord with *A. T. & S. F. Ry. Co. v. O'Connor*, *supra*, as well as *United States v. Huckabee*, 83 U. S. 414.

These cases hold different from the case of *Grady County v. Johnson*, 150 Pac. 497, wherein Commissioner Matthews said, that it appears impossible that there might be coercion in the payment of taxes upon lands. This decision is referred to by the court in the opinion in the present case, but the Grady County case cannot be decisive of anything in the present controversy. Commissioner Matthews in the opinion says that the law is well settled in this state. He cites two cases: *Louisiana Realty Co. v. McAlester*, 25 Okla. 726. *Pioneer Tel. Co. v. State*, 40 Okla. 417. Neither of these cases decide anything contrary to our contentions, for in the Louisiana Realty Co. case there was no question as to voluntary or involuntary payment, but the matter was decided on the theory that a mistake of fact was caused by neglect of duty and therefore the party was not entitled to any relief, and again there was no Indian or Federal question in the case.

The other case, that of *Pioneer Telephone Company v. State* decides that even though the payments for telephone service were voluntarily made to the Telephone Company, yet inasmuch as the company was demanding and collecting the rate in excess of that fixed by law, such company was acting against the laws of the state, and therefore a

recovery was decreed for such excess charges. This opinion by Justice Williams, therefore, holds that even though the payment was voluntary, if it is not justified by or was contrary to the laws of the state, it may be recovered back.

It is therefore to be seen that the law was not so well settled in this state, as was stated in the Grady County case.

There are a number of decisions to the effect that there may be coercion with reference to real property besides those we have heretofore cited, both by Federal and State Courts, and we are therefore bound to say that the statement of Commissioner Matthews, 'That there can be no coercion with respect to land' is supported neither by authority nor reason, and there is no authority cited in the Grady County opinion in support of the Commissioner's declaration.

In summing up the discussion of the matters briefed, it must be concluded that the Indian citizen had a vested right in the tax exemption of his lands as is determined in the cases of *Choate v. Trapp et al.* and *Gleason v. Wood*, by the Supreme Court of the United States, and since so determined by this court in *Weip v. Audrian*, 36 Okl. 288, and *Gleason v. Wood*, 43 Okl. 9; that these Indian citizens were wards of the Federal Government, as shown in *Tiger v. Western Development Company*, 221 U. S. 286, *Choctaw Nation v. United States*, 119 U. S. 1; *United States v. Allen*, 117 Fed. 13; and *Walker v. Brown*, 43 Okl. 144; that they attempted to prevent the defendant county, and other counties, from enforcing the void taxes so levied in defiance of their vested right of exemption as is shown in the cases of *Choate v. Trapp* and *Gleason v. Wood*, in volume 28 of the Oklahoma Reports, and were denied relief until 1912, the said two cases were reversed by the Supreme Court of the United States, as is reported in Volume 224 of the United States Reports, and heretofore referred to.

It is also evident that the Indian citizen was not on equal footing and not on equal terms with the county government as is shown in *Choctaw Nation v. United States*, 119 U. S. 28, and the other Federal cases heretofore referred to herein, and that the money had and received by the defendant county was not voluntarily paid, as it so plainly shown in *A. T. & S. F. Ry. Co. v. O'Connor*, 223 U. S. 280, and also the other Federal cases cited herein, as well as the late case from Kansas, *Ottawa University v. Bd. of County Commissioners of Franklin County*, 116 Pac. 892.

We are also to bear in mind that the law is to be liberally construed in favor of the Indian citizen, even in tax matters (*Schock v. Sweet*, 45 Okla. 59), and as it has announced that this is and has been the policy of the United States Supreme Court for more than one hundred years (*Choate v. Trapp*, *supra*), and that we must look to the substance of the right, without regard to technical rules framed under a system of municipal jurisprudence, formulating rights and obligations of private persons, equally subject to the same law, as the parties were not on an equal footing, that inequality must be made good by superior justice as declared in *Choctaw Nation v. United States*, *supra*.

Therefore in consideration of the foregoing, the defendants in error, respectfully asks that the judgment and decree herein be set aside and a rehearing be granted in this case, in order that full justice may be done, and the rights guaranteed these Indian citizens under treaties with the United States be upheld by this Court, as they are by the Supreme Court of the United States.

Respectfully submitted,

J. E. BENNETT,

GEO. P. GLAZE,

ESTELLE BELFOUR BENNETT,

*Attorneys for Defendants in Error.*



And on July 23rd, 1918, the Court overruled the petition for rehearing, and the following order was duly made and recorded, to-wit:

June Term, 1918, Supreme Court, July 23rd, 1918.  
Eighteenth Judicial Day.

No. 8356. *Board Co. Comm'rs. v. C. J. Ward et al.*

And now on this day it is ordered by the Court that the petition for rehearing filed in the above listed cause, be and the same is hereby denied.

AUTHENTICATION OF RECORD.

Supreme Court, State of Oklahoma, ss.

I, Wm. M. Franklin, clerk of said Court, do hereby certify that the foregoing pages, numbered from 1 to —, inclusive, are a full, true and complete transcript of the record in the cause of *Board of County Commissioners of Love County, Plaintiff in Error, v. Coleman J. Ward et al., Defendants in Error*, Number 8356, and also of the opinion and judgment rendered therein, as they now appear on file in my office.

In testimony whereof I have hereunto set my hand and affixed the seal of said court at my office in Oklahoma City, Oklahoma, this ..... day of September, 1918.

.....  
Clerk, Supreme Court of Oklahoma.

UNITED STATES OF AMERICA, ss:

[Seal of the Supreme Court of the United States.]

The President of the United States of America to the Honorable the Judges of the Supreme Court of the State of Oklahoma, Greeting:

Being informed that there is now pending before you a suit in which Board of County Commissioners of Love County is plaintiff in error, and Coleman J. Ward et al. are defendants in error, No 8353, which suit was removed into the said Supreme Court by virtue of a writ of error to the District Court in and for Love County, State of Oklahoma, and we, being willing for certain reasons that the said cause and the record and proceedings therein should be certified by the said Supreme Court and removed into the Supreme Court of the United States, do hereby command you that you send without delay to the said Supreme Court, as aforesaid, the record and proceedings in said cause, so that the said Supreme Court may act thereon as of right and according to law ought to be done.

Witness the Honorable Edward D. White, Chief Justice of the United States, the thirty-first day of October, in the year of our Lord one thousand nine hundred and eighteen.

JAMES D. MAHER,

*Clerk of the Supreme Court of the United States.*

[Endorsed:] File No. 26,786. Supreme Court of the United States, No. 700, October Term, 1918. Coleman J. Ward et al., vs. The Board of County Commissioners of Love County, Oklahoma. Office of the Clerk Supreme Court U. S. Received Nov. 14, 1918. Writ of Certiorari. Filed in Supreme Court of Oklahoma Nov. 9, 1918. William M. Franklin, Clerk.

In the Supreme Court of the United States.

No. 700.

COLEMAN J. WARD et al., Petitioners,

vs.

THE BOARD OF COUNTY COMMISSIONERS OF LOVE COUNTY, OKLAHOMA, Respondent.

*Return to Writ of Certiorari.*

In obedience to the commands of the within writ, I herewith transmit to the Supreme Court of the United States a duly certified transcript of the complete record and proceedings in the within entitled case, with all things concerning the same.

In witness whereof, I hereunto subscribe my name, and affix the seal of said Supreme Court of Oklahoma, in the City of Oklahoma City, this 9th day of November, 1918.

[Seal Supreme Court, State of Oklahoma.]

WILLIAM M. FRANKLIN,  
*Clerk Supreme Court of Oklahoma,*  
By N. C. ORR,  
*Assistant.*

[Endorsed:] File No. 25,786. Supreme Court U. S. October Term, 1918. Term No. 700. Coleman J. Ward et al., Petitioners, vs. The Board of County Commissioners of Love County, Okla. Writ of certiorari and return. Filed November 14, 1918.

In

Office Supreme Court, U. S.  
FILED

OCT 14 1918

JAMES D. WAHER,  
CLERK.

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In the Supreme Court of the United States

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COLEMAN J. WARD, ET AL.,

*Petitioners,*

VS.

THE BOARD OF COUNTY COMMISSIONERS OF LOVE  
COUNTY, OKLAHOMA,

*Respondent.*

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PETITION FOR WRIT OF CERTIORARI.

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J. E. BENNETT,  
GEO. P. GLAZE,  
ESTELLE BALFOUR BENNETT,  
*Attorneys for Petitioners.*

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Oklahoma Law Brief Company, 130 West Third Street, Oklahoma City.



NOTICE OF PETITION FOR WRIT OF CERTIORARI  
AND SERVICE THEREOF.

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T. B. Wilkens, Esq.,

County Attorney of Love County, Oklahoma,  
Attorney for Respondent.

You will please take notice that the petitioners, Coleman J. Ward, et al., will present the petition for a *Writ of Certiorari*, which is contained herein, to the Honorable Supreme Court of the United States at Washington, D. C., on Monday, October 21, 1918, at the hour of convening, or as soon thereafter as the said court may permit presentation thereof, at which time you may be present if you so wish.

Dated this 24<sup>th</sup> day of September, 1918.

J. E. Bennell  
Geo. C. Slaz...  
Estelle Balfour Bennett  
Attorneys for Petitioners.

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Service of the foregoing notice and copy of petition for *Writ of Certiorari*, together with copy of Transcript of Record in Supreme Court of Oklahoma is acknowledged this 24<sup>th</sup> day of September, 1918.

T. B. Wilkens  
County Attorney for Love County, Oklahoma,  
Attorney for Respondent.



# In the Supreme Court of the United States

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Coleman J. Ward, et. al.,  
*Petitioners,*

vs.

The Board of County Commissioners of  
Love County, Oklahoma,  
*Respondent.*

No.

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## PETITION FOR WRIT OF CERTIORARI.

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*To the Honorable Supreme Court of the United States:*

The petitioner, Coleman J. Ward, in his own behalf and for and in behalf of sixty-six (66) other persons similarly situated, joined with him in the proceeding, claimants and petitioners in the original cause and defendants in error in the Supreme Court of Oklahoma in the cause of *Board of County Commissioners of Love County, Plaintiff in Error, v. Coleman J. Ward, et al., Defendants in Error*, numbered 8356 therein, feeling themselves aggrieved by the order and judgment of the Supreme Court of Oklahoma, entered on June 11th, 1918, and re-affirmed on rehearing on July 23rd, 1918, which judgment reversed and set aside the judgment of the District Court of Love County, Oklahoma, in favor of plaintiffs, which decision and judgment of the Supreme Court of Oklahoma is the



final judgment of said court, and which, if unreversed deprives these plaintiffs of rights, immunities and privileges granted and secured to them under and by virtue of Treaties, Acts of Congress and the Constitution of the United States, hereinafter set forth, respectfully move this court for a *Writ of Certiorari* in said cause to the Supreme Court of Oklahoma for a review and reversal by this court of said order and judgment.

A certified copy of the entire record of said case in the Supreme Court of the State of Oklahoma is hereby furnished, attached to and made a part of this petition and marked exhibit "A" in compliance with rule 37 of this honorable court.

For cause herein petitioners respectfully show the court:

That by the Treaty between the United States and the Choctaw and Chickasaw Indians, contained in the Act of Congress, approved July 28th, 1898, 30 Statute at Large, 507, all lands allotted to the Choctaw and Chickasaw Indians were and are non-taxable, while the title remains in the original allottee not to exceed twenty-one years from the date of patent.

That the petitioners herein are citizens by blood of the Choctaw and Chickasaw nations, and were allotted lands in severalty under the terms of said Treaty within what is now Love County, Oklahoma, the particular tract allotted to each being set forth in the record in detail.

That preliminary to the admission of the territories of Oklahoma and Indian Territory into the Union, Congress, by the Enabling Act, approved July 16, 1906, 34 Stat. at L. 267, provided with reference to a proposed constitution for

the State of Oklahoma, that nothing contained in such constitution shall be construed to limit or impair the rights of persons or property pertaining to the Indians of said territory, so long as such right shall remain unextinguished, or limit or affect the authority of the Government of the United States, to make any law or regulation respecting such Indians, land, property or other rights by treaties, agreement or law, or otherwise, which it would have been competent to make if such Enabling Act had never been passed, thereby providing for the protection and carrying out of treaties and obligations with reference to the allotted lands of Indian citizens of the Five Civilized Tribes, including the lands of these Choctaw and Chickasaw Indians.

That disregarding the tax exemption under the Treaty and Act of Congress of July 28, 1898, 30 Stat. at Large 507, and relying upon Act of Congress of May 27, 1908, 35 Stat. at Large 312, entitled, "An Act for the removal of restrictions from a part of the lands of allottees of the Five Civilized Tribes, and for other purposes," which was invalid in so far as it made these lands taxable, the respondent county assessed for taxes and levied taxes on said allotted lands in 1908 and 1909. The Indian citizens of respondent county, and other counties so similarly situated, instituted suits of injunction in the state courts to restrain and enjoin the taxing of such allotted lands and from interfering with the rights and immunities of the Indian citizens secured to them under their said treaty with the Federal Government. The principal cases were *Choate et al. v. Trapp et al.*, and *Gleason et al. v. Wood et al.*, reported in 28 Okla. 502-517, but in these suits the trial courts and state Supreme Court held that under the said Act of Congress of May 27, 1908, 35 Stat. at Large

312, the lands were taxable and refused the relief sought. These actions were instituted in 1909 and were thereafter removed to the Supreme Court of the United States, where it was held in 1912 that the said Act of Congress of May 27, 1908, 35 Stat. at Large 312, in so far as it attempted to make the allotted lands taxable was invalid; that the said lands were exempt from taxation and such exemption was a vested right protected by the Constitution of the United States, Fifth Amendment (224 U. S. 665, 679, 680).

However, during the time these cases were in the courts the respondent county continued assessing for taxation and taxing the allotted lands in disregard of the rights and immunities of the allottees, threatening that if the amounts levied as taxes were not paid promptly, penalties of 18 per cent per annum would be imposed and the lands sold and two years after sale a deed would be issued to the purchaser at such tax sale. This was the procedure under the revenue law of Oklahoma, Art. 9, Chapter 98, Compiled Laws of Oklahoma, 1909.

The Indian citizens had no certainty of ultimate success in their suits then pending, and the penalty of 18 per cent per annum would go on accruing all the time that might be spent before final determination, and in the event it were adjudged that they had to pay, they would find the tax nearly doubled, and in the meantime would run the risk of having their lands sold and being deprived of them altogether. The summary remedy which was being resorted to by the respondent county and which the Indian citizen so far had been powerless to stop, caused him to yield in order to prevent the disadvantages and loss which might result and he protesting against the exactions was coerced into paying the amounts levied. The Indian citi-

zen was at a disadvantage, and could not deal with the county on equal terms.

This court having held in May, 1912, in the cases heretofore referred to (224 U. S. 665-679-680) that these allotted lands were exempt from taxation and that the counties should have been enjoined from collecting taxes thereon; that the Act of Congress of May 27, 1908, in so far as it attempted to make the lands taxable was invalid, and that the tax exemption was a vested right, the Indian citizens, these claimants, sought a return of the money exacted from them by coercion under the apparent authority of said invalid Act, and instituted this action. The District Court of Love County recognized their rights and rendered judgment in their favor for a return of the money on December 3, 1915 (certified transcript, pp 9 and 10), but the county appealed the cause to the Supreme Court of Oklahoma, which court on June 11, 1918, reversed the district court (certified transcript p. 210), and on July 23, 1918, denied these petitioners a rehearing therein (certified transcript p. 234).

Your petitioners further show that in the institution of the action they pleaded the Treaty contained in Act of Congress of June 28, 1898, 30 Stat. at Large 507, and the terms of the Enabling Act whereby the constitution was authorized to be made and adopted for the State of Oklahoma, 34 Stat at Large 267, urging that said treaty contained in the Act of June 28, 1898, conferred rights, privileges and immunities of tax exemption, the breach of which and right of recovery due them thereunder were protected in them by the Constitution and laws of the United States (certified transcript pp. 5-6). And further, they pleaded the cases of *Choate et al. v. Trapp et al.* and *Gleason et al. v. Wood et al.*, and the decisions therein of

the Oklahoma Supreme Court contained in Volume 28, Oklahoma Reports, at pages 502-517, wherein such court held that the said Act of Congress of May 27, 1908, 35 Stat. at Large 312, to be valid (certified transcript pp. 7-8 and 9).

And your petitioners also pleaded the decision and judgment of this court in the same cases, wherein this court determined that said Act of May 27, 1908, was invalid in so far as it sought to make these allotted lands taxable, reported in 224 U. S., page 665 (certified transcript p. 9).

The judgment of the Supreme Court of Oklahoma is based upon two grounds, the principal and controlling one being that the money paid by the petitioners on the allotted land, although non-taxable, in order to avoid a threatened sale and to avoid the imposition of penalties for failure to pay promptly were voluntary payments and in the absence of statutory authority same cannot be recovered back. The other ground being that in the absence of a statute imposing liability therefor, the county is not liable for taxes wrongfully collected which have been paid over to the State and municipal subdivisions thereof, other than the county against which the liability is sought to be imposed (certified transcript p. 211).

Your petitioners further show that in the petition for rehearing filed by them in the Oklahoma Supreme Court it was pointed out that the proposition to the effect that the county is not liable, in the absence of a statute, for money collected and turned over to the State and municipalities was and is not within the issues of the cause, and entirely without the case, because there never was any allegation or contention that the money collected in this controversy was

for the use and benefit of any other than Love County (certified transcript pp. 219-220), and your petitioners still so contend and insist and refer to the certified transcript at pages 6, 10, 11 and 12 to substantiate their contention.

And your petitioners further urged in their petition for rehearing as follows:

That the money was exacted from the Indian citizens contrary to the plans and policy of the Federal Government in dealing with them;

That the exaction of the money was in contravention of the rights secured under the Treaty contained in Act of Congress of June 28, 1898, 30 Stat. at L. 495-507;

That there was no power to tax the lands, hence no tax existed in fact, under the holding of this court in *Choate et al. v. Trapp et al.*, 224 U. S. 655, wherein it was determined that the Act of Congress May 27, 1908, 35 Stat. at L. 312 (under the authority of which the lands were taxed) was an invalid Act in so far as it attempted to make these lands taxable;

That the questions presented in the cause were and are of Federal cognizance and they must be determined in accordance with the Federal law;

That money paid under conditions like those in the instant case was paid under coercion as determined by this court in *A., T. & S. F. Ry. Co. v. O'Connor*, 223 U. S. 280;

That the decision of the Oklahoma Supreme Court denied the vested rights of the Indian citizens which were protected by the Federal Constitution;

That such decision deprived the Indian citizens of their

property without due process of law, in contravention of the Federal Constitution (certified transcript pp. 220-221).

It was further urged that these Indian citizens were wards of the Federal Government and not on equal footing with Love County, and that the inequality must be made good by superior justice; that the law is to be liberally construed in favor of the Indians because this has been the announced policy of the United States Supreme Court for more than one hundred years, such policy being set out in *Choctaw Nation v. United States*, 119 U. S. 28, and *Choate et al. v. Trapp et al.*, 224 U. S. 665 (certified transcript pp. 232-233).

Your petitioners show that, in the State of Oklahoma, counties may be sued under and by virtue of an express statute, which, in part, reads as follows:

“Each organized county within the state shall be a body corporate and politic and as such shall be empowered for the following purposes:

“First. To sue and be sued. \* \* \*

Section 1947 Revised Laws, Oklahoma, 1919.

Your petitioners further show that the Supreme Court of Oklahoma, which by its decision hereinbefore mentioned, denied the claims of the petitioners, is the highest court of the State of Oklahoma in which a decision of said question may be had, and that said court erred in denying the rights asserted by your petitioners.

These petitioners assert that the decision of the Oklahoma Supreme Court denies to the Indian citizen the enjoyment of vested rights by invoking a *state* rule of public policy, denying relief for a wrong committed under the apparent authority of an invalid Act of Congress, because

there is no express state statute providing a remedy, when a matter of fact Congress removed from the realm of state sovereignty all authority of the State of Oklahoma to limit or impair the rights and remedies belonging to such Indian citizens under their treaties with the Federal Government.

Your petitioners show that the decision of the Oklahoma Supreme Court that the county shall retain the money had and received by it as taxes for the years 1909, 1910, 1911, 1912, *destroys the tax exemption for those years by compelling the Indian citizen to pay money as taxes during such time, and decides, in effect, that during such particular years the allotted lands were taxable.* Thus the question of tax exemption in this cause raised under the Treaty contained in Act of Congress of July 28, 1898, 30 Stat. at L. 495-507, was erroneously decided by such court, and a decision of such question was necessary to a final judgment herein.

The petitioners further show that they were and are wards of the Federal Government, and that such government has expressly reserved the right and authority to deal with and protect the rights of such Indian citizens, and in so doing has adopted policies of liberality due by reason of the relative positions of the government on one side and a dependent race on the other, the inequality being made good by superior justice, looking to the substance of the right, without regard to technical rules framed under a system of jurisprudence, formulating rights and obligations of persons *equally* subject to the same laws. And these petitioners assert that the decision of the Supreme Court of Oklahoma denies them the use and enjoyment of their vested right of tax exemption under their Treaty with the Federal Government, by invoking a harsh and technical rule of forfeiture, formulated by it and upon which it bases and excuses the retention of the money, coerced and extorted



from them, contrary to and in defiance of the Federal Constitution and laws, which retention utterly destroys the tax exemption immunities for and during the years it is imposed, and overrides and thwarts the plan and policy of the Federal Government in dealing with and controlling its Indian wards.

Wherefore, your petitioners pray that this Court send to the Supreme Court of Oklahoma its *writ of certiorari*, commanding said court to certify to this Court the record and proceedings in said cause; that this Court will review the said decision, order and judgment of said Supreme Court of Oklahoma which reversed the trial court, and that this Court will send its mandate to the Supreme Court of Oklahoma directing said court to vacate and set aside its said decision, order and judgment and to affirm the judgment of the District Court of Love County, Oklahoma, herein.

J. G. Bennett.....  
Geo. P. Glazier.....  
Estelle R. Galt.....  
Attorneys for Petitioners.

VERIFICATION.

State of Oklahoma, }  
Oklahoma County, } ss.

J. E. Bennett, being duly sworn, says that he is one of the counsel for petitioners herein; that he assisted in preparing the foregoing petition and knows the contents thereof; that the allegations of said petition are true as he verily believes.

*J. E. Bennett*

Subscribed and sworn to before me by J. E. Bennett on this *22<sup>nd</sup>* day of September, 1918.

*Patrice Livan*

Notary Public.

My commission expires *June 1, 1921*

*(Paul)*



Office Supreme Court, U. S.

FILED

DEC 30 1919

JAMES D. MAHER,

CLERK.

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# Supreme Court of the United States

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October Term, 1919

No. 224

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COLEMAN J. WARD ET AL., *Petitioners,*

VS.

THE BOARD OF COUNTY COMMISSIONERS OF LOVE COUNTY, OKLAHOMA, *Respondent.*

---

On Writ of Certiorari to the Supreme Court of the State of Oklahoma.

---

ANSWER BRIEF OF PETITIONERS ON MOTION TO DISMISS.

---

J. E. BENNETT,

GEO. P. GLAZE,

ESTELLE BALFOUR BENNETT,

*Attorneys for Petitioners.*

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AFFIDAVIT OF SERVICE OF BRIEF.

tate of Oklahoma, Oklahoma County—ss.

Geo. P. Glaze being duly sworn says that he is one of the attorneys for petitioners in *Coleman J. Ward et al., Petitioners, v. The Board of County Commissioners of Love County, Oklahoma, Respondent*, pending in the United States Supreme Court; that on December 27, 1919, he deposited in the United States mail at Oklahoma City, Oklahoma, post paid, a copy of the within annexed brief of petitioners, addressed to T. B. Wilkins at Marietta, Oklahoma, postage prepaid, and caused the same to be transmitted by registered mail; that T. B. Wilkins is County Attorney of Love County, Oklahoma, and attorney for respondent in said cause; that Marietta is the county seat of said county and the proper address of said attorney for respondent, and is six hours distance, in time, by mail, from Oklahoma City.

.....  
\_\_\_\_\_  
Subscribed and sworn to before me December 27, 1919.

.....  
Notary Public of Said County and State.

My commission expires November 25, 1922.

\_\_\_\_\_  
Service of the following brief opposing motion to dismiss is acknowledged this 27th day of December, 1919.

.....  
Of Counsel for Respondent.



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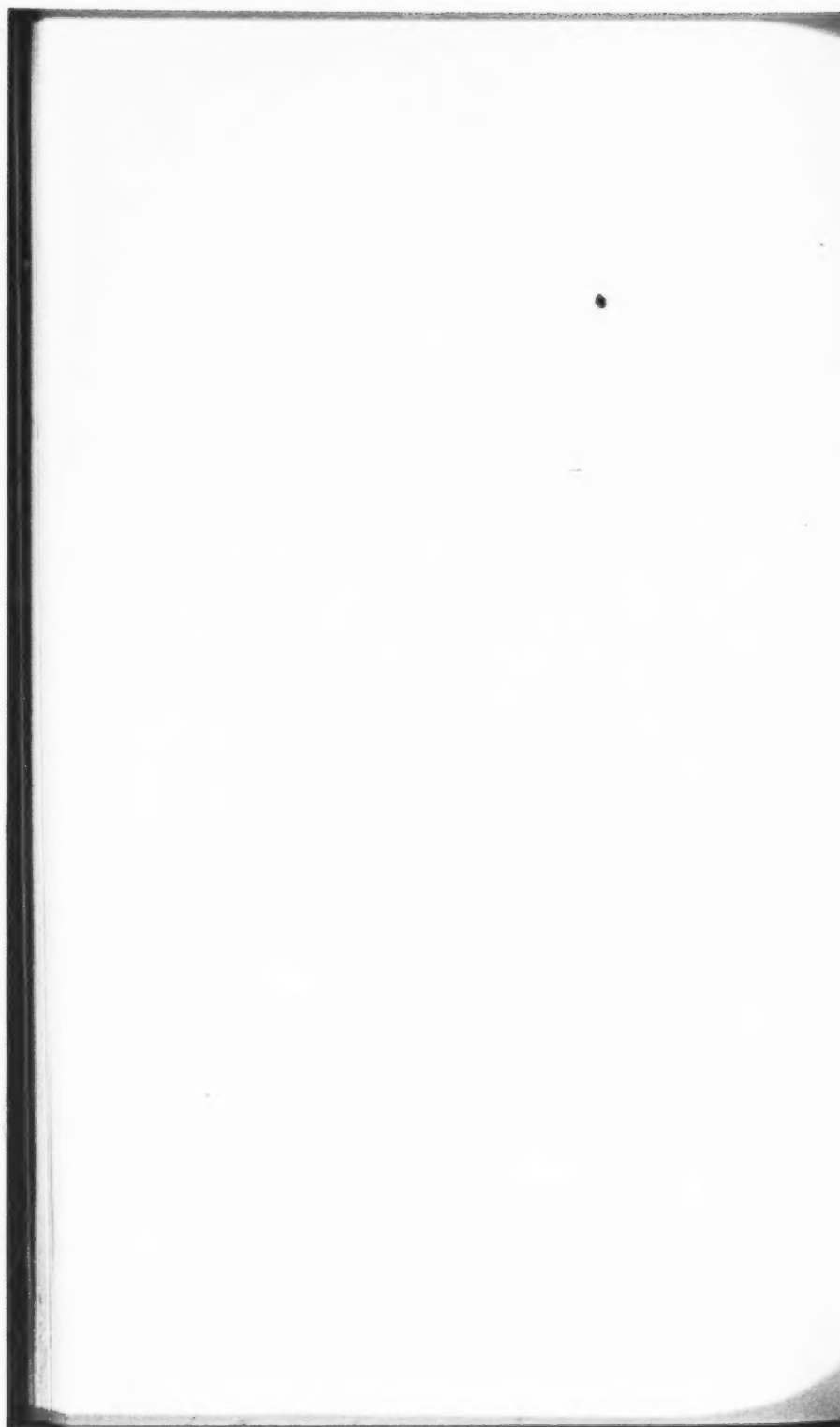


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# Supreme Court of the United States

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October Term, 1919

No. 224

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COLEMAN J. WARD ET AL., *Petitioners*,

VS.

THE BOARD OF COUNTY COMMISSIONERS OF LOVE COUNTY, OKLAHOMA, *Respondent*.

---

On Writ of Certiorari to Supreme Court of Oklahoma.

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ANSWER BRIEF OF PETITIONERS ON MOTION TO  
DISMISS.

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## STATEMENT.

The petitioners have been served in this cause with notice that certain attorneys on the 5th day of January, 1920, as *amici curiae*, will file their motion to dismiss this cause in the Supreme Court of the United States on three grounds set forth in said motion.

With the notice appears two motions, one for permission to file a brief in the cause in support of the contentions of the respondent, Love County. The other motion is to dismiss the writ of certiorari and the cause. An examination

of the motions and the service discloses that they are not made on behalf of Love County, the respondent.

The two motions, to which is annexed a brief, which are to be submitted to this Court, are by the Board of County Commissioners of Coal County, Oklahoma; the first motion asserts that Coal County is directly interested in the question to be determined, and therefore asks that such Board of Commissioners be permitted to file a brief as *amicus curiae* in support of the respondent's position. The next motion is made by the Board of County Commissioners of Coal County by Clinton A. Galbraith and George Trice, its attorneys, and asks the Court to dismiss the writ and proceedings. Messrs. Galbraith and Trice also appear as attorneys for the Commissioners of Coal County in the first motion.

Following these motions appears a notice to the petitioner herein that the Board of County Commissioners of Coal County as *amicus curiae* will present the motion to dismiss, on January 5, 1920.

Following these motions and the notice appears a brief on behalf of the respondent on the motion to dismiss. This brief is over the names of Messrs. Galbraith and Trice as attorneys for the respondent, and six other attorneys as of counsel for respondent.

It thus appears that the respondent is to be well and fully represented in this Court by competent attorneys and counsellors, and we cannot see wherein this Court can be aided in the matter by permitting two of said attorneys for respondent to appear in the role of *amicus curiae* also.

Messrs. Galbraith and Trice should be, and probably

are, just as willing and anxious to inform this Court as to the law while appearing as attorneys for respondent as they would be in the position of *amicus curiae*. This being the case, the question arises, what benefit or aid to the Court of the gentlemen acting at the same time in a dual capacity?

The Board of Commissioners of Coal County has no direct interest in the controversy, and its appearance here can have no beneficial result, but on the other hand causes needless vexation and expense to the petitioners. Coal County asks permission to file a brief. Counsel for petitioners respectfully submit that there is no need of it. The same attorneys appear also for the respondent, therefore nothing can be added or gained.

Coal County, without asking permission of this Court to appear for any other purpose than filing a brief, presents a motion to dismiss. No deceit, collusion or fraud is charged and counsel for petitioners feel that such motion by a stranger is only an unwarrantable interference, and therefore such motion should not be considered.

We fully appreciate that the matter of permitting the appearance of *amicus curiae* herein is solely within the discretion of this Court, but we feel assured that this Court will not permit strangers to appear in the proceeding when no aid can be rendered the Court by so doing.

Messrs. Galbraith and Trice have appeared as of counsel for the respondent in the case of *Broadwell, Petitioner v. Board of County Commissioners of Carter County, Respondent*, No. 289, of the October, 1919, term of this Court in a motion to dismiss and a brief in support thereof

which they sought to present to this Court December 15, 1919.

The identical question raised in case No. 289 just referred to is raised in this case, and the same array of attorneys and counsel appear in both cases, occupying, however, different positions. Some who were attorneys in one case appear as of counsel in the other, and vice versa. The matter presented in the Carter County case is, at this time, before this Court, and for this additional reason there is no necessity of the appearance of attorneys as *amicus curiae* herein.

Before entering upon the discussion of the question which arises in this cause, should this Court determine to consider the motion of Coal County to dismiss, the petitioners herein desire to observe that a reading of the record will disclose a different state of facts in some particulars than set up by attorneys for respondent. However, petitioners will content themselves with the observation that C. A. Greenlees, who was an interested party in this cause, is not the sole petitioner herein. This action was instituted and carried through the courts of the State of Oklahoma by some 67 Indian Citizens of the Choctaw Nation, among whom was Coleman J. Ward, in whose name these proceedings has at all times been conducted. The parties were all similarly situated and the causes are joined under the provision of the statute of the State of Oklahoma relating to joinder of parties, the statute referred to being Section 4690 of the Revised Laws of Oklahoma, 1910, reading as follows:

“When the question is one of common or general interest of many persons, or when the parties are very numerous and it may be impracticable to bring them all before the court, one or more may sue or defend for the benefit of all.”

It is also to be observed that each of these respective Indian citizens is directly interested in the result of this action, since its final determination will result in securing the benefits of the treaty exemption from taxation as provided by the terms of the Choctaw and Chickasaw Treaty (Act of Congress June 28, 1898, 30 Stat. at L. 495-507). The provisions of the Federal Act referred to guarantees to these claimants exemption from taxation of their allotted lands for a period of 21 years from the date of their patent, which period of exemption has not even at this time expired.

### ARGUMENT.

The motion to dismiss is based upon three purported grounds:

#### I.

“There is no Federal question decided in the case.”

#### II.

“The state court decided the case against the petitioners on a matter of general law broad enough to sustain the judgment, and did not determine a Federal question adversely to them.”

#### III.

“Even if the state court had decided a Federal question



against the petitioners, nevertheless it decided against them also upon independent grounds not involving any Federal question and broad enough to support the judgment and for this reason the Federal question will not be considered."

These several assignments embody but one general proposition, to-wit, that there is no controlling Federal question involved in this case.

Answering this point counsel for petitioners desire to direct the attention of the court to the fact that there are several dominating and controlling Federal questions involved in this action. We present our theory of the Federal aspect of this case under two heads, namely: First, the contract clause of the Federal Constitution; second, the "equal protection" clause and the "due process" clause of the Federal Constitution.

#### **The Contract Clause.**

In 1898 Congress ratified the treaty of the Choctaw and Chickasaw Tribes of Indians (Act of Congress June 28, 1918, 30 Stat. at L. 495-507). This provision of the Federal statute was before the United States Supreme Court in the case of *Choate et al. v. Trapp et al.*, 224 U. S. 665-679, and it was by the court in that case determined that the exemption from taxation of the land allotted the Indian Citizens constituted a vested right.

Subsequent to the treaty and Act of Congress referred to the Territory of Oklahoma enacted certain taxing laws, the date of which is not material here for the reason that the taxing laws referred to were not operative in the Indian Territory, but with the advent of statehood these

laws extended over the entire State of Oklahoma and were invoked against the property of these petitioners, and as shown in the record generally, and taxes were enforced upon their lands. This suit was instituted to recover the money so paid, and it was alleged in the first instance that the taxes were collected in violation of the vested rights of exemption contained in their treaty with the Federal Government. See record page 6. It was further stated that the same were paid under duress, compulsion and coercion. See record pages 6 to 12, inclusive.

The effect of the decision of the Supreme Court of Oklahoma in this cause denies all relief to petitioners upon their demand for such refund. The theory of the respondent, which has always been contended for by Love County and supported by the decisions of the Supreme Court of Oklahoma, has been that the taxes were voluntarily paid and therefore not recoverable. This theory is a state rule of public policy, based upon the idea that the state should not be disturbed in the progress of the collection of revenue.

The taxing laws of the State of Oklahoma were enacted subsequent to the granting of the exemption, which in the *Choate v. Trapp* case, *supra*, was held to be supported by a valid consideration, if indeed any were necessary. *The denial of relief here is a denial of all relief under their vested rights, and operates to impair by subsequent state legislation the contract of exemption entered into between the Federal Government and the Choctaw-Chickasaw Indians.* It is pertinent to observe that the State of Oklahoma made itself a party to this contract by its own Con-

stitution. See Sec. 6, Art. 10, Constitution of Oklahoma, providing that "such property as may be exempt by reason of treaty stipulations, existing between the Indians and the United States Government, or by Federal laws, during the force and effect of such treaties or Federal laws, shall be exempt from taxation."

The theory of petitioners is, that the right of recovery herein rests upon a violation of their vested rights which denies them a right, title, privilege and immunity claimed by them under the laws of the United States. The petitioners contend that the decision of the Supreme Court of Oklahoma operates to impair and deny their treaty contract of exemption within the Contract Clause of the Federal Constitution.

See *Choate v. Trapp*, U. S. 665-679.

*New Jersey v. Wilson*, 7 Cranch 164, 3 L. Ed. 303.

In *Bronson v. Kinzie et al.*, 1 How. 311, the Court said:

"But it is manifest that the obligation of the contract, and the rights of the parties under it, may, in effect, be destroyed by denying a remedy altogether; or may be seriously impaired by burdening the proceedings with new conditions and restrictions, so as to make the remedy hardly worth pursuing. \* \* \*"

"The remedial part of the law is so necessary a consequence of the former two, that laws must be very vague and imperfect without it. For, in vain would rights be declared, in vain directed to be observed, if there be no method of recovery and asserting those rights when wrongfully withheld or invaded. This is what we mean when we speak of the protection of the law \* \* \*."

“We have quoted the entire paragraph, because it shows, in a few plain words, and illustrated by a former example, the connection of the remedy with the right. It is a part of the municipal law which protects the right, and the obligation by which it enforces and maintains it. It is this protection which the clause in the Constitution now in question mainly intends to secure. And it would be unjust to the memory of the distinguished men who framed it, to suppose that it was designed to protect a mere barren and abstract right without any practical operation upon the business of life. It was undoubtedly adopted as a part of the Constitution for a great and useful purpose. It was to maintain the integrity of contracts, and to secure their faithful execution throughout this Union, by placing them under the protection of the Constitution of the United States. And it would but ill become this court, under any circumstances, to depart from the plain meaning of the words used and to sanction a distinction between the right and the remedy which would render this provision illusive and lucatory; mere words of form affording no protection and producing no practical results.”

See also:

- White v. Hart*, 13 Wallace 646-654.
- Green v. Biddle*, 5 Peters 369.
- Von Hoffman v. Quincy*, 4 Wallace 552.
- Ogden v. Saunders*, 12 Wheaton 231.
- Fletcher v. Peck*, 6 Cranch 87.
- Sturgis v. Crownshield*, 4 Wheaton 122.
- Beers v. Haughton*, 9 Peters 359.
- McCracken v. Hayward*, 2 Howard 612.
- Planters Bank v. Sharp*, 6 Howard 327.

**The "Equal Protection" and the "Due Process" Clauses.**

The tax laws of the State of Oklahoma were not only void in their operation upon the property of these petitioners, but were in absolute violation of the Federal Constitution. Notwithstanding this fact, under the purported operation of the tax law these petitioners have been coerced and deprived of their property. In the courts of the State of Oklahoma they were met at all times with the defense, that notwithstanding the illegality and the manifest injustice of the actions on the part of the taxing authorities, the payments are voluntary and not recoverable.

It is the contention of petitioners that when the courts of Oklahoma excuse the retention of the money taken from them in this case, by invoking a state rule of public policy, namely, the theory of voluntary payment and the theory that a decision based upon the state construction constitutes a state question, operates by law to deprive them of their property without due process of law, and to deny them the equal protection of the law, guaranteed by the Federal Constitution.

In the case of *Raymond v. Chicago Union Traction Co.*, 207 U. S. p. 36, the court said:

"The provisions of the 14th Amendment are not confined to the action of the State through its legislature, or through the executive or judicial authority. Those provisions relate to and cover all the instrumentalities by which the state acts, and so it has been held that whoever, by virtue of public position under a state government, deprives another of any right protected by that Amendment against deprivation by the state, violates the constitutional inhibition; and as he

acts in the name of the state and for the state, and is clothed with the state's powers, his act is that of the state. *Chicago, B. & Q. R. Co. v. Chicago*, 166 U. S. 266, 41 L. Ed. 979, 17 Sup. Ct. Rep. 581. Following the above case, the Federal courts through the country have frequently reviewed the action of taxing bodies, when, under the facts, such action was in effect the action of the state, and therefore, reviewable by the Federal courts by virtue of the provisions of the Amendment in question. See *Nashville, C. & St. L. R. Co., v. Taylor*, 86 Fed. 168; *Louisville Trust Co., v. Taylor*, 46 C. C. A. 299, 107 Fed. 305. In the last case, which related to enjoining the collection of alleged illegal taxes by reason of discrimination, the court said: 'It may be conceded that, if the allegations of the bill are made out, there exists, in respect to the property of complainant and others similarly situated, a systematic, intentional, and illegal undervaluation of other property by taxing officers of the state, which necessarily effects an unjust discrimination against the property of which the plaintiff is the owner, and a bill in equity will lie to restrain such illegal discrimination, and that in such cases, Federal jurisdiction will arise because of the equal protection of the laws guaranteed by the 14th Amendment.' "

In the case of *Ex parte Commonwealth of Virginia*, 100 U. S. 339-370, 25 L. Ed. 676-680, this Court further said:

"We have said the prohibitions of the 14th Amendment are addressed to the States. They are 'No State shall make or enforce a law which shall abridge the privileges or immunities of citizens of the United States. \* \* \* Nor deny to any person within its jurisdiction the equal protection of the laws.' They have reference to actions of the political body denominated a State, by whatever instruments or in whatever modes that

action may be taken. A State acts by its legislative, its executive or its judicial authorities. It can act in no other way. The Constitutional provision, therefore, must mean that no agency of the State or of the officers or agents by whom its powers are exerted, shall deny to any person within its jurisdiction the equal protection of the laws. Whoever by virtue of public position under a state government, deprives another of property, life or liberty without due process of law, or denies or takes away the equal protection of the laws, violates the Constitutional inhibition, and as he acts in the name and for the State and is clothed with the State's power, his act is that of the State. This must be so, or the Constitutional prohibition has no meaning. Then the State has clothed one of its agents with power to annul or to evade it.

“But the constitutional amendment was ordained for a purpose. It was to secure equal rights to all persons and to insure to all persons the enjoyment of such rights. Power was given to Congress to enforce its provisions by appropriate legislation. Such legislation must act upon persons, not the abstract thing denominated a State, but upon the persons who are the agents of the State in the denial of the rights which were intended to be secured.”

In *Bronson v. Kinzie*, *supra*, the Supreme Court said:

**“The REMEDIAL PART OF THE LAW IS SO NECESSARY A CONSEQUENCE (of the former two), that laws must be very vague and imperfect without it. For, in vain would right be declared, in vain directed to be observed, if there were no method of recovering and asserting those rights when wrongfully withheld or invaded. This is what we mean properly when we speak of the protection of the law.”**

Petitioners respectfully suggest to the Court, under the authority of *Atchison T. & S. F. Ry. Co. v. O'Conner*,

223 U. S. 280, and *Union Pacific Ry. Co., v. Public Service Commission*, 248 U. S. 67, that the voluntary payment theory upon which the respondent would defeat and destroy the vested right of petitioners, is not the law, and upon such theory counsel for respondent cannot successfully maintain in this court the right of Love County to retain money in its hands wrongfully received by it which in equity and good conscience it is not entitled to retain.

It was early laid down, as a rule, by this Court, that counties could not retain money which had been received contrary to law, for we read in *Louisiana v. Wood*, 102 U. S. 294-299, as follows:

“As we took occasion to say in *Marsh v. Fulton County*, 10 Wall. 676, ‘the obligation to do justice rests upon all persons, natural and artificial, and if a county obtains money or property of others without authority, the law, independent of any statute, will compel restitution or compensation’.”

This case was followed by *Chapman v. County Commissioners*, 107 U. S. 348, wherein this Court, after quoting the foregoing, also held that the county had the money as a trustee for the party paying it.

#### **Answering Respondent's First Point.**

The first point is set out on pages 12 to 20 of the brief and is devoted to an attempt to show that the Oklahoma Supreme Court decided against the petitioner on a matter of state practice and procedure. It is there stated that because the amounts of money paid by the Indian Citizens were not itemized that the State Supreme Court determined that no recovery could be had.



Counsel for petitioners assert that no question of practice or procedure was determined by the State Supreme Court. The only points of law decided by the Oklahoma Supreme Court are contained in the two paragraphs of the syllabus.

The law of Oklahoma provides that a syllabus of the points of law decided in any case in the supreme court shall be stated in writing by the justice writing the opinion of the court, and shall be confined to the points of law arising from the facts in the case that have been determined by the court, and it shall not be altered unless by consent of the justices concurring therein. The syllabus of the case as determined by the Oklahoma Supreme Court is set out on page 211 of the record, and is also shown at pages 13 and 14 of the brief of respondent. Nothing contained in either paragraph refers to the fact that the money paid by these petitioners was not set out in sufficient detail in the petition.

Section 5260, Revised Laws of Oklahoma, 1910, reads as follows:

“5260. Syllabus. A syllabus of the points of law decided in any case in the supreme court shall be stated, in writing, by the justice delivering the opinion of the court, and filed with the papers of the case, which shall be confined to points of law arising from the facts in the case, that have been determined by the court; and the syllabus shall be submitted to the justices concurring therein; and a copy of such syllabus shall, in all cases, be sent to the court below by the clerk of the supreme court, with the mandate provided for by Section 5258.”

From the foregoing it must be evident to the court

that the only propositions of law decided by the Oklahoma Supreme Court are contained in the syllabus of the case heretofore referred to, and that no question of state practice or procedure was in issue or decided. It must further appear that any statements of the judge who wrote the opinion with reference to the payments not being itemized so as to determine what portion was received by the county is purely *dicta*, and the cases cited by respondent under the first point can have no application in the matter now before this Court.

**Answering Respondent's Second Point.**

Under this subdivision it is asserted, commencing on page 21 of the brief, that the case was decided against the petitioner on a matter of general law broad enough to sustain the judgment, and did not determine a Federal question adversely to him.

The general law which the respondent sets out is that the state supreme court held that the money was voluntarily paid, and for that reason cannot be recovered back.

**These Petitioners have from the first, and still are urging, that the judgment of the Oklahoma State Court takes away and destroys a right and an immunity which existed under and by virtue of a treaty and a statute of the United States.**

All of which was specifically set up and pleaded.

The state supreme court as a matter of fact based its judgment wholly upon a state rule of public policy and ignored the vested rights and immunities existing by virtue of the treaty and Federal law which petitioners specially set up.

This court has a number of times determined that a state court cannot, by resting its judgment upon some ground of local or general law, defeat the appellate jurisdiction of the Supreme Court of the United States, if a Federal right or immunity specially set up or claimed which, if recognized and enforced, would require a different judgment.

*Chicago, B. & Q. Ry. Co. v. People of Illinois, ex rel.*, 200 U. S. 561.

*West Chicago Ry. Co. v. People of Illinois, ex rel.*, 201 U. S. 506.

*Sage v. Hempe*, 235 U. S. 99.

*Joy v. St. Louis*, 201 U. S. 332.

*Talbot v. First Nat'l. Bank*, 185 U. S. 172.

*Missouri, K. & T. Ry. Co. v. Elliott*, 184 U. S. 530.

*McCullough v. Virginia*, 172 U. S. 102.

*Murray v. Charleston*, 96 U. S. 432.

*Curran v. Arkansas*, 56 U. S. 304.

The Oklahoma Supreme Court in denying a recovery in this cause upon the ground that the money was voluntarily paid destroyed the vested right of the petitioners, for, as we have seen, to take away the remedy destroys the right; therefore, the result has been that the vested right of exemption from taxation during the particular years for which respondent county collected the money as taxes on the lands, has not only been invaded, but has been complete destroyed.

Under a subdivision of the second point respondent's brief asserts that the only Federal question contended for by the petitioners was decided in their favor, which was that the lands were non-taxable under the treaties and

Act of Congress, and that this concession and admission by the state court does not give this court jurisdiction to review the decision of the state court.

There was nothing in issue in this cause as to the lands being exempt from taxation at all times, for the reason that prior to the commencement of these proceedings this court had handed down its decision in the case of *Choate et al. v. Trapp et al.*, *supra*, which was referred to and pleaded by petitioners from the beginning.

The Supreme Court of Oklahoma in this cause held against the petitioners in every proposition contended for which was put in issue. The proposition which counsel for respondents say is the only Federal question contended for by the petitioners ceased to be a question after the decision by this Court in *Choate et al. v. Trapp et al.*, *supra*, in 1912.

In a second subdivision of point two, commencing on page 24 of the brief, the question of whether money paid under the circumstances shown to exist in the case at bar was voluntarily paid and whether a Federal question was determined by the state supreme court in its holding thereon.

The respondent urges under this subdivision that the Indian lands in question were not subject to the tax imposed and, therefore, the payments necessarily were voluntary, and cites in support thereof the case of *Garr Scott & Co. v. Shannon*, 223 U. S. 468, which case determines that the payment of the tax by one who was not included in a class to which the law applies could not be under duress, but a voluntary payment.

The above mentioned case is not applicable in the matters now at issue for the reason that these Indian lands were in fact wrongfully included within the class to which the state taxing laws attached.

At the time Love County sought to obtain revenue from these lands, it contended that the tax exemption contained in the treaty and the Act of Congress was no longer in force and effect, and that the lands were subject to taxation under the general laws of the state equally with the property of all persons. The courts of the State of Oklahoma sustained this contention, both the trial court and the supreme court. It was only after the cases brought by the Indians to prevent the taxing of their lands had been removed to this Court that they were afforded any relief. This was in 1912, when the court decided *Choate et al. v. Trapp et al.*, and the companion cases.

The position of Love County appears very inconsistent. When it desired to force revenue from the Indian lands it then said that the lands were taxable under the State law, and after it had obtained the money through coercive means and a recovery was sought, then the county says, your lands were never taxable under the State law, therefore, the money was voluntarily paid and a recovery cannot now be had. It would appear that Love County was now estopped from setting up such a defense when a recovery is sought.

The respondent cites a number of Oklahoma decisions in order to convince this court that these lands were not taxable under the state law at the time the payments com-

plained of were made. These cases are set out on pages 29, 30 and 31 of the brief.

Not a single one of the cases cited by counsel for respondent was so decided until after this court determined the case of *Choate et al. v. Trapp et al.*, 224 U. S. 665, in May, 1912.

Respondent's brief sets out an Oklahoma statute and also quotes from the Constitution of the State in an effort to show that the lands were not taxable at such time.

The court will observe the Constitution of the State provides that such property that may be exempt by reason of treaty stipulations existing between the Indians and the United States Government or by Federal laws *during the force and effect of such treaties or Federal laws*, shall be exempt from taxation. To the same effect is the Oklahoma statute.

In 1909, when Love County sought to enforce its claim of revenue from these lands by taxing them, the respondent county decided that the treaties and Federal laws exempting the lands from taxation were *no longer in force and effect*.

When the Indians sought to prevent the taxation of the lands, the trial courts of Oklahoma sustained the contention that the lands were no longer exempt from taxation, and the Supreme Court of the State affirmed the trial courts, holding that Section 4 of the Act of Congress of May 27, 1908 (35 Stat. at L. 312-13), *terminated the exemption from taxation provided for in the treaty between the Choctaw and Chickasaw Indians and the United States, and that such exemption was no longer in force and effect, and further that these lands were taxable under the State*

law of Oklahoma the same as all other lands of the State. The principal decisions of the Oklahoma State Court where in it so held are reported in Vol. 28, Oklahoma Reports, at pages 502 and 517.

There were four cases decided by the Supreme Court at such time, they being *Choate et al v. Trapp et al.*, *Gleason et al. v. Wood et al.*, *Alexander v. Rainey* and *English v. Richardson*.

The earliest decision of the Oklahoma Supreme Court to the contrary was determined in September, 1912, being that of *Whitmire v. Trapp*, 33 Okla. 429, and this case was followed by *Weilip v. Audrain*, 36 Okla. 288, determined in November, 1912. *Leiber v. Rogers*, 37 Okla. 514, was decided in June, 1913, and following next was the case of *Wood v. Gleason*, 43 Okla. 9, decided in April, 1914. All four of these cases were predicated upon the holding of this court in *Choate et al. v. Trapp et al.*, 224 U. S. 665, and the State case of *Wood v. Gleason*, 43 Okla. 9, was a continuation of the case of *Gleason et al. v. Wood et al.*, which originated in Pittsburg County, Oklahoma, and afterwards reached this court, being determined at the same time as the case of *Choate et al. v. Trapp et al.*

The case of *Marcey v. Board of Commissioners*, 45 Okla. 1, and *McGeisey v. Board of Commissioners*, 45 Okla. 10, were decided in November, 1914. *Davenport v. Doyle*, 57 Okla. 341, was decided in April, 1916, and *Hutchinson v. Brown*, 167 Pac. 624, in October, 1916.

From the foregoing we cannot conceive how counsel for respondent expected to convince this court that the Supreme Court of the State had determined at the time

of the payments concerned in this cause, that the lands were not taxable.

Petitioners believe that this Court will readily see the distinction between the facts in the case of *Garr Scott & Co. v. Shannon, supra*, and the facts in the case at bar. The courts of Oklahoma wherein the land was situated had determined that the force and effect of tax exemption provided for in the treaty had been terminated by an Act of Congress, and that the lands were taxable under the state law equally with the lands of all persons. Thus the courts had determined that the allotments of these Indians were in the class to which the State taxing laws applied, and such Indian citizens, fearing that their lands would be taken from them if the tax was not paid, or at least if their taxes were not paid promptly the amount would be considerably increased by the heavy penalties of the State law, and while still contending that the lands were exempt, they unwillingly and through fear, and protesting at the time, paid the amounts levied against their land and continued the prosecution of their suits to the National Supreme Court, where they obtained relief for the first time in 1912.

The case of *Davenport v. Doyle*, 57 Okla. 341, which was decided by the Oklahoma Supreme Court in April, 1916, and which has been referred to by counsel for respondent, shows how far the taxing machinery provided for by the State laws of Oklahoma was operative against the Indian Citizens. In that case we are told by the Supreme Court of Oklahoma that the lands of an Indian minor were assessed for taxation and taxes levied thereon by Okfuskee County, Oklahoma, but the taxes so



levied upon the minor's property were not paid for the year 1909; that in June, 1910, the lands were sold by the county for such taxes, and thereafter, a tax deed to the land was issued to one Davenport, who entered into possession of the land. The action was brought in 1913, after this Court had declared that all such lands were exempt from taxation, and finally in 1916 the Supreme Court of Oklahoma determined that the tax deed was void, and all attempts to tax the lands and the sale thereof for taxes were nullities, reference being made to the decision of this Court in *English v. Richardson*, 224 U. S. 680, which was rendered at the same time as that of *Choate et al. v. Trapp et al.*, *supra*. It must be evident to this Court that the taxing authorities of the counties in Oklahoma were going to the farthest extent of the state law to enforce the payment of taxes to the county upon these Indian lands. In the *Davenport v. Doyle* case the minor was deprived of a valuable property right, the possession and enjoyment of his land for a number of years.

So far as the State taxing law of Oklahoma was concerned, in view of the decisions of the trial courts and the Supreme Court of the State that these Indian lands were not exempt, but were subject to taxation under the general laws of the State equally with the property of all persons, these Indians and their lands *were included in the class to which the State taxing laws with its penalties and its forfeitures was in fact applied*, and these Indians and their lands *remained in that class to which the state law was applied, until this court reversed the state supreme court in 1912*. Counsel for petitioners feel that the case of *Garr Scott & Co., v. Shannon*, *supra*,

is not applicable to the matters in issue in the manner in which counsel for respondent desire to apply it. In that case it is also said that if the plaintiff had been included in the class to which the statute applied and under the duress of its automatically enforced provisions had paid the taxes to avoid the disruption of its business, it could have maintained an action to recover the amounts exacted.

In the present case, not only had the courts of the state determined that the lands were subject to taxation under the general laws of the state equally with the property of all persons, but the respondent, Love County, actually levied the taxes upon the lands, which was an encumbrance and a cloud upon the title, and the courts of Oklahoma refused to prevent such action or to remove such encumbrance until after this Court had spoken.

On page 35 of their brief, counsel states that even if the allotments had been taxable, there was no such drastic consequences attached to their non-payment so as to make their payment one under duress, citing three cases from this Court, but petitioners in answering refer to the facts and circumstances in the case of *Davenport v. Doyle*, 57 Okla. 341, as a sample of how drastic were the consequences. Counsel feel that the consequences were even more drastic than in the case at *Atchison, Topeka & Santa Fe Ry. Co. v. O'Conner*, 223 U. S. 280.

Respondent on pages 36 and 37 of the brief cite *Phillips v. Board of Commissioners*, 5 Kans. 412, and *Lamborn v. Board of Commissioners*, 97 U. S. 181, in order to show that the payment of taxes upon exempt Indian lands are voluntary payments.

The decision in the case of *Lamborn v. Board of Com-*

*missioners* was so decided for the sole reason that the Supreme Court of Kansas had prior to that time decided that way, and this Court stated that *it was the law of Kansas which the state court was called upon to administer, and that because of the settled decision of the state court, it decided in accordance therewith.* This was the law of Kansas as determined by its Supreme Court up to 1878.

But since the Kansas cases referred to by this Court in the Lamborn case, the Supreme Court of Kansas has been called upon several times to decide cases involving the same legal proposition, and we find that the Kansas court has since repudiated its earlier holding. In *Ottawa University v. Board of Commissioners*, 116 Pac. 832, determined in 1911, we find that the former decisions in that state are reviewed, and the court in such case holds contrary to the earlier decisions and determines that a payment of money very like the circumstances in the present case against Love County, was not a voluntary payment. And inasmuch as the taxes in the Kansas case were an illegal exaction they must be repaid. In this case Franklin County attempted to collect taxes on lands belonging to the University. The management of the University claimed the lands were exempt, and in order to avoid the heavy penalty for non-payment of taxes provided by the Kansas law, the management of the University paid the taxes demanded, protesting against the legality of same, and brought suit to recover back the money. This later determination by the Kansas Supreme Court overrules *Phillips v. Board of Commissioners*, and inasmuch as the law of Kansas as determined by its supreme court has been changed, the Lamborn case heretofore determined by this court can have

no bearing upon the matters now in issue. Then again the case of *Lamborn v. Board of County Commissioners*, *supra*, should be compared with the late case of *Atchison, T. & S. F. Ry. Co. v. O'Conner*, *supra*.

Money paid under the circumstances as in this cause are without a doubt paid under coercion and duress and are not voluntary.

*Atchison, T. & S. F. Ry. Co. v. O'Conner*, 223 U. S. 280.

*Union Pac. Ry. Co. v. Pub. Serv. Com.*, 248 U. S. 67.

*Patton v. Brady*, 184 U. S. 608-614.

*Robertson v. Frank Bros.* 132 U. S. 17-27.

*Swift & Co. v. United States*, 111 U. S. 22-28.

*Maxwell v. Griswold*, 51 U. S., 10 How. 242-256.

*Cox v. Lott*, 12 Wall. 204-220.

*Harreld v. Kann*, 159 Fed. 608-614.

In considering whether this Court should take jurisdiction of the case at bar, it will take notice of the fact that the guardianship of the Indian did not cease when an allotment was made, as is set out in *Tiger v. West. Development Company*, 221 U. S. 286. They are still members of an inferior and dependent race and as was said in *United States v. Allen*, 179 Fed. 13, that clothing them with citizenship did not change their character or invest them with full industrial capacity, they still being wards of the government. It seems to counsel for petitioners that *to tax these lands, and enforce the collection of the same, virtually destroys the authority of the National government to protect its Indian wards.*

In *Choctaw Nation v. United States*, 119 U. S. 1-28,

this Court said that the recognized relation between the parties to the controversy was that between a superior and an inferior, whereby the latter is placed under the care and control of the former, and which, while it authorized the adoption on the part of the United States of such policy as their own public interests may dictate, recognizes on the other hand such an interpretation of their acts and promises as justice and reason demands in all cases where power is exerted by the strong over those to whom they owe care and protection. This court said that the Indian and the government are not on equal footing, and the inequality is to be made good by superior justice which looks only to the substance of the right without regard to technical rules framed under a system of municipal jurisprudence formulating the rights and obligations of private persons equally subject to the same laws.

We contend that the judgment of the state supreme court ignores the vested rights of the Indian Citizens which are protected from infringement and destruction by the Federal Constitution, by permitting Love County to unlawfully extort money under the contention that it was lawfully due as taxes, which contention was sustained at the time by the Supreme Court of the State, and when it is sought to recover such money so coerced, recovery is denied on the ground that the Indian Citizens knew at the time that the money was not lawfully due, but voluntarily paid same to such county.

The said judgment ignores that a governmental instrumentality was interfered with and set at naught by Love County, and the plan of the Federal Government for the elevation of the Indians of the Five Civilized Tribes was thwarted in permitting Love County to utterly destroy

the exemption for and during the years the taxes were so wrongfully exacted, and such judgment ignores the fact that the money collected by coercion by Love County was in violation of a contract between the United States and the Indian citizen, and places the United States in the position of permitting its contract to be repudiated on its side, and breaking faith with its wards to whom it owes the highest degree of care and superior justice.

Said judgment in denying a remedy for the invasion and destruction of the vested property rights denies in effect such property rights, although existing under and by virtue of a treaty with the Federal Government and a Federal statute, which rights are protected by the Federal Constitution, and hence, this judgment of the state court is one for review by the National Supreme Court.

Said judgment overlooks the fact that although Love County wrongfully coerced the payment of the money from the Indian Citizens, it did so in accordance with the law as settled by the state supreme court at such time, yet in violation of Federal law, and that a remedy for such violation of the Federal law is not to be determined under a state rule of public policy.

Said judgment in denying a recovery from Love County of money wrongfully and unlawfully coerced from Indian Citizens through interference with and destruction of a vested right of tax exemption by means of judicial duress, created by erroneous judgments of the state judiciary, also denies and sets at naught every right and immunity under the Federal Constitution, the guarantees of the Federal Government to its Indian wards, and every vestige of honesty, right, justice, fair dealing and Christian morals

which the Federal Government has for more than an hundred years endeavored to teach its dependent people.

In *Ballinger v. Frost*, 216 U. S. 240, we read from the opinion of Mr. Justice Brewer, as follows:

“Whenever in pursuance of the legislation of Congress, rights have become vested, it becomes the duty of the courts to see that these rights are not destroyed, by any action of an executive officer, even the Secretary of the Interior, the head of a Department.”

From the foregoing it appears that this Court has already declared it to be the duty of the courts to see that vested rights are not destroyed even by a member of the President's Cabinet, and in the case at bar, as the courts of the State of Oklahoma have permitted the vested rights of the Indian Citizens to be invaded and destroyed by Love County, counsel for petitioners have full faith that this Court will retain jurisdiction and see that such rights are fully recognized and protected.

On consideration of the foregoing authorities and the facts in this case, counsel for petitioners respectfully suggest that this is a case for determination by this Court, and that the record discloses a controlling Federal question; that the rights of these petitioners cannot be determined other than upon a determination of their rights under their Treaty and the Act of Congress of June 28, 1898, 30 Stat. at Large 495.

Petitioners therefore pray the Court to retain jurisdiction of this cause and decide the same upon the merits.

having confidence in their position that this cause is one of Federal cognizance; and these petitioners respectfully ask that the motion to dismiss, if the court permits the same to be submitted and considered, be denied.

Respectfully submitted

J. E. BENNETT,  
GEO. P. GLAZE,  
ESTELLE BALFOUR BENNETT,  
*Attorneys for Petitioners.*



FEB 16 1920

JAMES O. MAHER;  
CLERK.

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# Supreme Court of the United States

October Term, 1919

No. 224

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COLEMAN J. WARD ET AL., *Petitioners,*

VS.

THE BOARD OF COUNTY COMMISSIONERS OF LOVE COUNTY, OKLAHOMA, *Respondent.*

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On Writ of Certiorari to the Supreme Court of the State of Oklahoma.

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## BRIEF OF PETITIONERS.

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J. E. BENNETT,  
GEO. P. GLAZE,  
ESTELLE BALFOUR BENNETT,  
Oklahoma City, Okla.,  
*Attorneys for Petitioners.*



AFFIDAVIT OF SERVICE OF BRIEF.

State of Oklahoma, Oklahoma County—ss.

Géo. P. Glaze, being duly sworn, says that he is one of the attorneys for petitioners in *Coleman J. Ward et al., Petitioners, v. The Board of County Commissioners of Love County, Oklahoma, Respondent*, pending in the United States Supreme Court; that on Feb. 13, 1920, he deposited in the United States mail at Oklahoma City, Oklahoma, post office, a copy of the within annexed brief of petitioners, addressed to T. B. Wilkins at Marietta, Oklahoma, postage prepaid, and caused the same to be transmitted by registered mail; that T. B. Wilkins is County Attorney of Love County, Oklahoma, and attorney for respondent in said cause; that Marietta is the county seat of said county and the proper address of said attorney for respondent, and is six hours distance, in time, by mail, from Oklahoma City.

.....  
Subscribed and sworn to before me February 13, 1920.

.....  
Notary Public of Said County and State.

My commission expires November 25, 1922.



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# Supreme Court of the United States

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October Term, 1919

**No. 224**

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Coleman J. Ward et al., Petitioners,

vs.

The Board of County Commissioners of Love County,  
Oklahoma, Respondent.

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ON WRIT OF CERTIORARI TO SUPREME COURT OF OKLAHOMA.

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BRIEF OF PETITIONERS.

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## **ABSTRACT AND STATEMENT.**

This proceeding is one to recover from Love County, Oklahoma, money paid it by Choctaw and Chickasaw Indian citizens as taxes which such county levied upon lands allotted to them under and by virtue of their treaty with the United States which is contained in the Act of Congress of June 28, 1898, 30 Statute at L., 495-507, which lands so allotted were by the terms of such treaty exempt from taxation.

The petitioners consist of sixty-seven Choctaw and

Chickasaw Indian citizens joined in one action, who filed their petition for such recovery October 25, 1915, with the Board of County Commissioners of such county demanding a refund to them of the aggregate sum of \$10,164.24 and interest. The Board of County Commissioners refused the demand of petitioners and an appeal was taken in the manner provided by the laws of Oklahoma, to the District Court of Love County where the respondent, Love County, filed a demurrer to the petition on the principal ground that the petition did not state facts sufficient to constitute a cause of action and entitle the petitioners to a recovery. The petition consists of sixty-seven causes of action, all of which are substantially the same and the general allegations of the petition which are a part of each and all of the several causes of action are contained on pages 4 to 12 of the record. The demurrer of the respondent, Love County, is shown on pages 203-204 of the record. The District Court overruled the demurrer to the petition and the said county electing to stand upon its demurrer refused to plead further in the cause, whereupon the court rendered judgment in favor of the petitioners as prayed for in the sum of 10,164.24 and interest at 6 percent per annum from November 4, 1915, the journal entry of such proceedings in the District Court is set out on pages 204-205 of the record.

Thereupon such county, after presenting its motion for rehearing, which was by the court overruled, perfected its appeal to the Supreme Court of Oklahoma which court on June 11, 1918, reversed the judgment of the District Court of Love County, such proceedings in the Supreme Court of Oklahoma being set out in the record on pages 210-211.

The syllabus which states the law as determined by the Supreme Court of Oklahoma is shown on page 211 of the record and is as follows:

I.

“In the absence of a statute imposing liability therefor a county is not liable for taxes wrongfully collected by a County Treasurer and by him paid over to the state or a municipal subdivision of the state other than the county against which liability is sought to be imposed.”

II.

“Where certain citizens of the Choctaw and Chickasaw Nations paid certain taxes assessed against their respective allotments, which were non-taxable, in order to avoid a threatened sale of their lands and in order to avoid the imposition of penalties thereon for failure to pay said taxes and where at the time of said payment there was pending litigation seeking to enjoin the collection of said taxes, and where at the time said parties were fully informed as to the law which made said taxes illegal and there was no immediate necessity for the payment of said taxes to prevent a seizure of the person or property of said persons, Held: that said payment was voluntary, and in the absence of statutory authority therefor cannot be recovered back.”

The opinion of the Supreme Court of Oklahoma is shown in full on pages 212-218 of the record.

The petitioners herein who were defendants in error in the Supreme Court of Oklahoma, within the time allowed by law, filed their petition for a rehearing, which petition is shown on pages 218-223 of the record, such petition for a rehearing was overruled by the said Supreme Court on July 23, 1918, and such judgment of the Supreme Court of Oklahoma which had been theretofore rendered herein on June 11, 1918, before final. The overruling of the petition for rehearing is shown on page 234 of the record.

This cause was removed to this court, from the Oklahoma Supreme Court by writ of certiorari prayed for by these petitioners October 14, 1918, on which date they filed their petition for such writ accompanying the same by a

certified record of all the proceedings in the court below. This court granted the writ on October 31, 1918 (record 235), and on November 9th, following, the clerk of the Supreme Court of Oklahoma returned the writ together with a certified copy of the proceedings in the courts of Oklahoma (record 235-236), which return and writ was filed in this court November 14, 1918.

On January 5, 1920, a motion was filed in this court, together with a brief, challenging the jurisdiction of this court and asking that the writ heretofore allowed and the cause, be dismissed. The grounds of such motion being that there was no Federal question involved and that the judgment of Oklahoma Supreme Court was based upon a matter of general law broad enough to sustain it.

The brief accompanying the motion to dismiss went into the merits of the cause as well as the questions involved in the motion and the answer brief of these petitioners on such motion to dismiss likewise went to the merits to some extent, and as this court has reserved consideration of the motion to dismiss until the cause is submitted upon its merits these petitioners ask the court to read their brief opposing such motion to dismiss in connection with this brief. We will endeavor to refrain from presenting jurisdictional matters in this brief but will be compelled to refer to cases herein which are also presented in our other brief, and beg the indulgence of the court in so doing.

The facts in this case are as set out in the petition shown on pages 4-13 of the record and as the demurrer of the respondent, Love County, filed in the trial court, admitted the allegations of the petition to be true such allegations now become what may be considered as an agreed statement of facts.

The petition filed in the first instance asking for a recovery of the money in question set out that these petitioners were citizens of the Choctaw and Chickasaw tribes of Indians and duly enrolled as such and were allotted the lands set out and described in the petition under and by virtue of the provisions of the treaty between the United States and the Choctaw and Chickasaw Indians contained in the Act of Congress of June 28, 1898, 30 Stat. at L., page 495; that the respondent herein, Love County, is one of the counties of Oklahoma, duly organized and existing under the Constitution and laws of such state; that the lands allotted to the petitioners were all situated and lying within the boundaries of Love County and had before the allotment thereof belonged to the Choctaw and Chickasaw tribes of Indians; that under and by virtue of the said treaty and Act of Congress all of the lands so allotted were exempt from taxation while the title remained in the original allottee, not exceeding twenty-one years from the date of the patent (record, page 5). It was alleged at the period of tax exemption had not yet expired and that the title to said allotments was still retained by the respective Indian citizens who are the petitioners herein; that disregarding the rights of these petitioners and in violation of the terms of the said treaty and Act of Congress and in violation of the express duty imposed by law upon the officers of said county the said county, through its officers, did unlawfully assess and levy the taxes on and against said allotted lands for the respective years therein set forth and in the amounts set out in each separate and distinct cause of action and the said officers of respondent county unlawfully and in violation of the rights of these petitioners demanded that they pay to said county the sums of money so levied and assessed against their respective allotments and that said County Treasurer threatened to sell and did advertise for

sale and did sell like Indian lands to recover such sums as taxes which had been levied and assessed against such allotments (record page 6). And it was further alleged that the amounts levied as taxes on the allotments created liens upon the lands and clouded the titles thereto; that said Choctaw and Chickasaw citizens, protested and objected to said assessing and taxing of their allotted lands and instituted actions in the state courts of Oklahoma to enjoin the respective counties from assessing and levying taxes on the allotted lands in question and all other lands allotted under said treaty and Act of Congress, and further enjoin and restrain the respective counties and their officers from enforcing and collecting said tax, from selling or threatening to sell, the lands of the Indian citizens for failure to pay the same and to further prevent said counties from clouding the title to their said lands by assessing and levying taxes thereon, the principal suits being *Choate et al. v. Trapp et al.*, *Alexander v. Rainey* and *English v. Richardson*, but the courts of Oklahoma refused to enjoin such counties and their officers from imposing and collecting such taxes, the said courts both trial courts and Supreme Court of Oklahoma holding and determining that said allotted lands were taxable and that the treaty exemption was no longer in force and effect (see 28 Oklahoma Reports 502-518-408 for Oklahoma Supreme Court decisions in said cases, record 7-8. These petitioners further plead the case of Gleason, a citizen of the Choctaw tribe of Indians, brought in his own behalf and in the behalf of all other Indian citizens against eleven counties in Oklahoma covering the greater part of the Choctaw and Chickasaw country the title of the cause being *Gleason v. Wood et al.*; that the trial court and the Supreme Court of the State of Oklahoma denied the Indian citizens any relief in such action which was brought for the purpose of preventing the

counties and the officers thereof from levying and enforcing taxes on the lands allotted under and by virtue of the treaty hereinbefore referred to, the decision of the Supreme Court of Oklahoma is reported in Volume 28 of Oklahoma Reports page 502. These petitioners further set out that said actions were removed to the Supreme Court of the United States which court reversed the courts of Oklahoma, holding that all the allotted lands were exempt from taxation and that such exemption was a vested property right which could not be impaired, the said petitioners set out in such petition that said decision of this court was contained in Volume 224 of the United States Supreme Court Reports at page 679. And it was further alleged that the case of *Gleason v. Wood* after being determined in the Supreme Court of the United States was remanded to the trial court and that the said case came for the second time before the Supreme Court of the State being reported in Volume 43 Oklahoma Reports at page 9 (record page 9). It was further pleaded that the taxing officers of the various counties and the officers of Love County knew at the time of the assessing, levying, imposing and collecting of taxes on the allotted lands that said actions instituted for the purpose of preventing such taxation were still pending in the courts undetermined (record page 10). It is further set out in the petition that under the laws of Oklahoma taxes levied and not paid by the 1st of January following the time when taxes were due become delinquent and a penalty of 18 percent a year is added to the tax and enforced and collected by a sale of the property upon which the tax has been levied; but the officers of Love County threatened these petitioners that if the taxes were not paid which had been levied on their allotments they would enforce the said taxing laws against the lands and sell the same at

tax sale; that the officers of Love County contended, urged and held out that the lands of the claimants were not exempt from taxes and that the laws which had heretofore rendered them non-taxable had been changed and repealed and that these petitioners fearing that such contention of the officers of said Love County were true but refusing to believe that the same was true, paid the taxes levied and at the time of payment objected thereto and protested to the County Treasurer; that while the petitioners believed and contended that their lands were exempt from taxation under their treaty with the United States, but fearing that the contentions of said Love County and its officers might be true, and for the purpose of preventing the heavy penalty provided under the laws of Oklahoma from being imposed for non-payment of taxes, and to prevent the allotted lands from being sold for non-payment of taxes, and in order to protect themselves against great loss and damage in the event the actions then tending to prevent the taxation of their said lands were decided against them, did against their wills pay the amounts levied as taxes to the Treasurer of Love County, and at the time of such payment the county officers of Love County knew full well that each of said Indian citizens, these petitioners, were protesting and objecting to the assessment and taxation of their lands with all the force and power possessed by them, they carrying their protests and complaints to the highest court of the nation; that such money was forced from these petitioners by duress and threats and that they paid the same because of fear that their allotments would be sold for taxes and they would lose them altogether (record page 10-11).

These petitioners further alleged that the sums of money so paid and set out in their petition had not been repaid to



them and that in law, equity and good conscience Love County had no right to retain said money (record 12-14).

The entire petition containing the various causes of action and the affidavits supporting each cause of action are set out in the record pages 4 to 201 inclusive, each cause of action sets out the roll number of the allottee, the description of his land and the amount of taxes paid by each respective petitioner with the date of payment thereof.

It is to be noted that in the entire petition no reference is made as to any part of the taxes assessed, levied and paid on these allotments belonging to any other subdivision of Oklahoma than the respondent, Love County. In each instance the allegation is made that Love County levied the taxes and that Love County received the taxes and that Love County retained the taxes. Counsel are calling attention to this fact at this time for the reason that in the first paragraph of the syllabus of the opinion in this cause by the Supreme Court of Oklahoma and in the opinion itself, it is inferred that a part of the taxes levied and collected belong to school districts, townships or other subdivisions. The demurrer of the respondent, Love County, in the trial court admitting all the allegations of the petitioners to be true it cannot be said by the Supreme Court of Oklahoma that any part of these taxes were for the use and benefit of any other than the respondent, Love County.

The sum and substance of the facts in this case briefly stated are that after the Indian citizen had taken their allotments and received a patent therefor which patent recited that the land would be non-taxable as long as the title remained in the allottee not to exceed twenty-one years, which is the language contained in the treaty, Congress passed the Act of May 27, 1908, contained in 35 Stat. at L. 312, entitled,

“An Act for the removal of restrictions from a part of the lands of the allottees of the Five Civilized Tribes, and for the purposes,” and the counties in Oklahoma which contain allotted lands, including Love County, determined that the force and effect of the tax exemption in the treaty and Act of Congress of June 28, 1898, 30 Stat. at L. 495-507, was no longer in force and effect, and that the allotted lands were taxable the same as all other property in the state of Oklahoma. When the allotted lands were taxed quite a number of different suits were brought against the various counties wherein allotted lands were situated to prevent by injunction the taxation of such allotments. In one of the cases several thousand Indians joined by name as plaintiffs, while other cases were brought by one or more Indian citizens in their own behalf and on behalf of all other Indian citizens similarly situated. In the trial courts in Oklahoma the Indians were denied any relief whatsoever and the various counties including Love County continued to tax the allotments and enforce the same under the tax laws of Oklahoma. The cases were appealed to the Supreme Court of the state and that court affirmed the trial courts in each case, holding that the treaty exemption from taxation was no longer in force or effect and that the allotments were taxable equally with all other property in the state. These cases were then removed to the National Supreme Court, which decided in May, 1912, that the allotted lands were not taxable and that the exemptions contained in the treaty and Act of Congress of June 28, 1898, were vested rights which could not be abrogated, even by Congress, and that the Act of Congress of May 27, 1908, 35 Stat. at L. 312, insofar as it attempted to make the allotted lands taxable, was invalid. The taxes imposed upon the allotted lands were so imposed under this invalid Act of Con-

gress which the courts of Oklahoma determined was valid. While these various suits were pending the counties, including Love County, continued to tax the lands and enforce the same, the Indian citizens protesting against the payment of these taxes, paid them through fear of great loss in the event their suits which were yet undetermined should be decided against them. The cases referred to which were instituted by the Indians were *Choate et al. v. Trapp et al.*, reported in 224 U. S. 665, and three companion cases determined at the same term of court in 1912. No taxes were levied against the allotted lands after the decision of this court in 1912 and after such decision the Indian citizens sought to have the counties return to them the money which had been so wrongfully extorted and coerced from them as taxes on their non-taxable lands. The Indians have been met with the defense that they paid such money voluntarily, of their own free will, without any undue influence being exerted upon them, and that they cannot now recover it back.

These petitioners from the beginning and throughout all the progress of this cause urged that their right to recovery of the money was by virtue of the tax exemption contained in the treaty and Act of Congress of June 28, 1898, being a vested property right which, when invaded and destroyed for and during the years the taxes were imposed and collected, the courts would compel compensation and restitution.

This vested right springing from a treaty and an Act of Congress being protected by Section 10, Article 1 of the Federal Constitution and the 5th and 14th amendments, will be protected and enforced by the National Supreme Court when ignored and avoided by the courts of the state.

The remedy for a wrong being an inseparable part of the law declaring a right, the denial by the state court of all

remedy for the invasion and destruction of a vested property right is a denial of the right itself by the state court.

In the petition for rehearing filed in the Oklahoma Supreme Court and set out on pages 218-233 of the record, it was urged that the State Supreme Court had overlooked that the money was in contravention of the rights secured under the to the plan and policy of the Federal Government in dealing with the Indians and their lands; that the exaction of the money was in contravention of the rights secured under the treaty between the United States and the Indians contained in the Act of Congress of June 28, 1898, 30 Stat. at L. 495; that the question presented in the cause is of Federal cognizance and must be determined in accordance with the Federal law and the construction of the Federal courts; that money paid under conditions like those in this case have been determined by the National Supreme Court to have been made under duress and coercion; that the judgment of the Oklahoma Supreme Court denies the vested rights of the petitioners which are protected by Section 10, Article 1 of the Federal Constitution, and the 5th amendment thereto, which rights were adjudged favorably to them in *Choate et al. v. Trapp et al.*, 224 U. S. 665, and companion cases, and that the protection extends to the remedy petitioners invoked for the violation thereof; that these petitioners by such judgment are deprived of their property without due process of law in violation of the 14th amendment to the Federal Constitution (Record 220-221).

In such petition for rehearing petitioners cited numerous decisions of this court and other courts which sustain their position, but the state court again ignored and denied the vested rights of these petitioners which existed under their treaty and the Act of Congress of June 28, 1898.

These petitioners urged in the court below and are still urging that the denial of recovery in this action denies to them the enjoyment of their vested rights under their treaty by invoking a state rule of public policy, and that the judgment of the state court operates to impair and destroy such property rights which were secured under their treaty with the Federal Government.

Petitioners in their brief heretofore filed on the motion to dismiss, presented their theory of the contract cause of the Federal Constitution as applicable to the matters now in issue and respectfully urge the court to refer thereto, the same being on pages 6-9 of such brief. "The equal protection" and "the due process" clauses of the Constitution are applied to the matters now before us on pages 10-13 of such brief, and on page 12 thereof we quote from *Bronson v. Kinie et al.*, 1 How. 311, with relation to the denial of a remedy for a wrong, as follows:

"The remedial part of the law is so necessary a consequence (of the former two), that laws must be very vague and imperfect without it. For, in vain would rights be declared, in vain directed to be observed, if there were no method of recovering and asserting those rights when wrongfully withheld or invaded. This is what we mean properly when we speak of the protection of the law."

We direct the court's attention to Section 5260, Revised Laws of Oklahoma, 1910, which is set out in full on page 14 of our brief on the action to dismiss, for the purpose of making it clear that the only questions of law determined by the Oklahoma Supreme Court are those contained in the syllabus of the decision.

All these things were succinctly stated in our petition for the writ of *certiorari*.

## **SPECIFICATIONS OF ERROR.**

### **I.**

It was error for the Oklahoma Supreme Court to hold that no recovery could be had in this action because the respondent, Love County, may have paid out part of the tax money collected from petitioners to various subdivisions of the county, in the absence of a state statute authorizing it.

### **II.**

The court erred in holding that the money paid respondent county as taxes upon allotted lands which were non-taxable under treaty with the United States and Act of Congress (June 28, 1898, 30 Stat. at L. 495), was paid voluntarily, and that in the absence of a state statute so authorizing cannot be recovered back.

### **III.**

The Oklahoma Supreme Court further erred in denying a recovery in this action since such judgment operates to deny the protection of the Federal exemption from taxation secured under treaty contract with the Federal Government and protected by the Federal Constitution, Section 10 of Article 1.

### **IV.**

The judgment of the Oklahoma Supreme Court is error for the reason that it denies relief for the violation and destruction of a vested property right and leaves petitioners without any remedy whatsoever therefor. The right which is thus destroyed existing by virtue of a treaty with the United States and an Act of Congress, and such judgment of the state court not only overrides "the due process clause," but also denies operation of "the equal protection clause" of the Federal Constitution, violative of the 5th and 14th amendment thereof.

### ARGUMENT.

The decision of the Oklahoma Supreme Court in this cause is on the theory that the right of recovery rests upon the construction of the tax laws of the State of Oklahoma. It advances as a theory for denying the petitioners a recovery, that the payments were voluntary and therefore not recoverable; and the further theory that because the moneys collected from petitioners by Love County may have been distributed to the various subdivisions of the county.

The often repeated position of petitioners is that the Act of Congress, June 28, 1898, 30 Stat. at L. 495-507, under which these petitioners were allotted the non-taxable lands in Love County created in them vested property rights, or what might be termed a vested estate, and Congress having legislated in the matter the rights of these petitioners rests purely upon the Federal grant and no proceeding for the collection of the tax imposed by Love County can divest them either of their vested right or their remedy for its invasion or destruction, and therefore the determination of such rights depend upon a question of Federal cognizance only. Since Congress has legislated in the matter the entire subject is removed from the realm of operation of the laws of Oklahoma and the state laws on questions of public policy with reference to this proceeding cannot be invoked by the respondent, Love County, either to deprive them of their property or to deprive them of a remedy for the violation of such rights.

Since the decision of the Oklahoma Supreme Court is based solely upon state questions and avoids all questions of Federal aspect, counsel for petitioners in presenting this matter desire to discuss for a time the essential aspects of the decision of the state court. The syllabus sets out, declares

and is the law upon which the judgment rests, the first paragraph reading as follows:

“In the absence of a state statute imposing liability therefor a county is not liable for taxes wrongfully collected by a County Treasurer and by him paid over to the state or municipal subdivision of the state other than the county against which liability is sought to be imposed.”

We have heretofore referred to the fact that this statement cannot be based upon the facts in this cause, for the reason that all the money paid as taxes was levied by, paid to and retained by the respondent, Love County, under the allegations of the petition in the first instance, and such allegations have been admitted as true by respondent county in the trial court, but, however, we will discuss the relation of the legal principles set out in such syllabus to the law which controls this action.

#### **FIRST SPECIFICATION OF ERROR.**

The first assignment of error by counsel for petitioners in contradiction to the above statement of law as announced by the court below is as follows:

**It was error for the Oklahoma Supreme Court to hold that no recovery could be had in this action because the respondent, Love County, may have paid out part of the tax money collected from petitioners to various subdivisions of the county, in the absence of a state statute authorizing it.**

To state our proposition another way, it may be said that:

**There were pending at the time of collection of the sums paid by petitioners to Love County, suits to enjoin the collection of the purported tax, which suits were sufficient notice to the county of the tax payers' claim to the money; and it is therefore error for the Supreme Court of Oklahoma to hold that the refund here demanded cannot be had because the county has distributed the tax money to the various municipal subdivisions of the county.**



It is obvious that the Treasurer of Love County, Oklahoma, if he did distribute the money paid him by these claimants as taxes, had full knowledge at all times that these claimants were contesting the right of Love County, not only to tax their lands, but to receive or retain or distribute such money and such money is the subject matter of this cause. Since the County Treasurer had notice of this fact, the distribution, if any was made, by the county of the money cannot disturb the right of these petitioners to a recovery.

This seems elementary. In *Du Bois v. Board of Commissioners*, 10th Ind. App. 347, 37 N. E. 1057, it was held:

“It is no defense to an action against a county for state, county and town taxes collected erroneously by the county treasurer, that after commencement of the action, a part of the tax collected for the state, and the town has been paid them out of the county treasury since the pending of the action is sufficient notice of the tax payers right to the money.”

To the same effect, see *Greenabaum v. King*, 4 Kans. 332, 96 American Decision 172.

In the *Du Bois* case it was said:

“As long as it (the money) remains in the county treasury, it was held in trust by the county, either for the appellant or for the proper funds to which it respectively belonged. When the board of commissioners received notice of the appellant's claim the county becomes a trustee for the appellant, and in the event it was afterwards adjudged that his claim was a meritorious one, it became obligatory upon the county to refund the money to appellant which had been paid by him.”

See also:

*Shoemaker v. Bond*, 36 Ind. 175.

The tax money paid in this case by petitioners was received by Love County in absolute violation of the provisions of the Choctaw-Chickasaw Treaty, Act of Congress, June 28th, 1898, 30 Statute 495-507. By the terms of the treaty it is provided that lands allotted to petitioners were and are non-taxable while the title to same remains in the original allottee, not to exceed 21 years from date of patent, and in the case of *Choate v. Trapp*, 224 U. S. 665, and companion cases, this Court held the treaty exemption to be a vested right and that if a consideration was necessary to support the treaty that consideration existed by virtue of the agreement of the Federal Government to hold such lands non-taxable for the period designated, in consideration of which these Indians took their lands in severalty by allotment, as citizens of the Choctaw-Chickasaw Nation. It is, therefore, evident that the money which passed into the possession of the county in this instance was without authority of law, especially since in the *Choate v. Trapp* case this court held the land to be non-taxable. The recipient of the money, Love County, was in the position of one who has the property of another in his possession unlawfully, and was not entitled to enjoy the beneficial interests in the same, nor was such county entitled to distribute the same to any subdivisions which it might represent as a taxing agency.

In the case of the *United States Exp. Co. v. Allen*, 29 Fed. 712-14, the court said:

“If \* \* \* the tax is unconstitutional, it is void; it confers no right, imposes no duty, supports no obligation. Nothing can be predicated upon it.”

If the right to tax did not exist, the right to distribute the fund did not exist. The county was a trustee of these petitioners, by its own wrongful act, and since it and every agency

connected with the operation of the taxing machinery knew that a long series of injunction suits were pending at the times the payments were made, to test the validity of their action, it seems equitable that it cannot now plead its own wrongful acts, nor repudiate its obligation, which result will follow the judgment of the Supreme Court of Oklahoma if it is permitted to stand.

Hill on Trustees (144), lays down the following rule:

“Whenever the circumstances of a transaction are such that the person who takes the legal estate in property, cannot also enjoy the beneficial interests without necessarily violating some established principle of equity, the court will immediately raise a constructive trust and fasten it upon the conscience of the legal owner, so as to convert him into a trustee for the parties who, in equity, are entitled to the beneficial enjoyment.”

This language was adopted by the Supreme Court of the United States in the case of *Chapman v. Douglas County Commissioners*, reported in 17 Otto., 107 U. S. 348-361. The Chapman case was one wherein Douglas County, Nebraska, had received certain land under agreement made by the county commissioners in excess of their authority, agreeing to pay for it at a definite time, the grantor on default of payment to be entitled to a decree that the county surrender possession and reconvey to him, unless payment be made of the amount due therefor, within the designated time. The contract was *ultra vires*. However, since the land had been conveyed to the county in pursuance of the agreement and no consideration had been paid by the county, or was ever paid, this Court held the county as a trustee of the title and decreed in that case a reconveyance of the property, thus applying the rule of trusteeship to a municipality in fur-

therance of the declared principle of the law, which it enunciated as follows:

“The obligation to do justice rests upon all persons, natural or artificial; and if a county obtains money or property of others without authority, the law, independent of any statute, will compel the restitution or compensation.”

The same rule is announced in *Marsh v. Fulton County*, 10 Wallace 676-684, 77 U. S. 1040-1042; *Louisiana v. Wood*, 102 U. S. 294-299; *Miltonberger v. Cook*, 18 Wallace 421-485, 85 U. S. 864. The same line of holdings is announced by Mr. Justice Field, prior to the time that he occupied the bench of the National Supreme Court, and at a time when he was one of the Justices of the Supreme Court of California, in what are familiarly known as the “Slip Cases” (*McCracken v. City of San Francisco*, 16 Cal., p. 591). See, also, *Clark v. Saline County*, 9 Neb. 516; *Pimental v. San Francisco*, 21 Cal. 262; *Argenti v. San Francisco*, 16 Cal. 282.

### SECOND SPECIFICATION OF ERROR.

The second paragraph of the syllabus by the court below enunciates the second proposition of law upon which the judgment rests, and is as follows:

“Where certain citizens of the Choctaw and Chickasaw Nations paid certain taxes assessed against their respective allotments, which were non-taxable, in order to avoid a threatened sale of their lands and in order to avoid the imposition of penalties thereon for failure to pay said taxes and where at the time of said payment there was pending litigation seeking to enjoin collection of said taxes, and where at the time said parties were fully informed as to the law which made said taxes illegal, and there was no immediate necessity for the payment of said taxes to prevent a seizure of the person or property of said persons. *Held*: That said payment

was voluntary, and in the absence of statutory authority therefor cannot be recovered back."

In discussing this conclusion of law of the Supreme Court of Oklahoma, counsel for petitioners advance the second assignment of error as follows:

**The court erred in holding that the money paid respondent county as taxes upon allotted lands which were non-taxable under treaty with the United States and Act of Congress, June 28, 1898 (30 Stat. at L. 495), was paid voluntarily, and that in the absence of a state statute so authorizing cannot be recovered back.**

Under this division of our discussion it must appear that the Supreme Court of Oklahoma erred in holding in this case that the petitioners who are citizens of the Choctaw and Chickasaw tribes of Indians and were allotted lands as such in Love County, Oklahoma, under the provisions of a treaty contained in Act of Congress, June 28, 1898, and who without question paid, under duress, compulsion and protest, money to Love County as purported taxes upon their respective allotments, which assessment and levy of tax was and is in violation of the vested property rights of the petitioners under such treaty, and who seek by this action to recover from such county the money so paid by them to it, are not entitled to recover the same, because the court below, in carrying out a state policy, declares the payments were voluntarily made and are not recoverable in the absence of a state statute permitting such recovery.

In the case of *Choate et al. v. Trapp et al.*, 224 U. S. 665-676, this court had before it the provisions of the Choctaw-Chickasaw Treaty, which has been heretofore referred to in this brief with reference to the tax exemption claims of the Indians of the Choctaw-Chickasaw Tribes, which includes the petitioners in this case within its category. In

that case the exemption under the treaty was sustained, and the injunction prayed for by the respective citizens of the tribes was sustained, and the respondent county and other counties were enjoined from taxing the lands of your petitioners. This present action was brought to recover the money paid as taxes by petitioners prior to the final determination of the injunction suit by this court.

The decision of the Supreme Court of Oklahoma proceeds upon the theory that the right of recovery is a state question, and the theory of the petitioners is, that since their right is based on the treaty and Act of Congress, their remedy lies in redress under such treaty and Act of Congress and is, therefore, a question of Federal cognizance; that since Congress has legislated on this subject and since, in the case referred to, the right vested in them by the treaty has been determined to be a Federal right, it is immaterial whether duress was exercised upon these Indians within its ordinary technical definition. The question is, whether their rights have been impaired and if so, whether there is a remedy. Regardless of the Federal right, however, counsel desire to discuss at this time the theory itself, on which the State decision is based, and it is earnestly contended that not only are the elements of coercion and duress present in this case, which renders the tax recoverable on that theory, but that since the entire tax proceeding is void, the rule of voluntary payment has no place and no application to the proper determination of the case.

In the case of *United States v. Chehalis County*, 217 Fed. 285, it was said in substance that, the rule that taxes voluntarily paid cannot be recovered back, is made for the benefit of the state, and has no application to a suit by the United States to recover taxes wrongfully collected on lands

of Indian allottees, which the government has assumed the duty of holding in trust and protecting from taxes. The court said in the opinion in that case:

“The exacting requirements necessary to take a given case out of the rule as to voluntary payments, grows in part out of the policy of protecting the state from embarrassment in the matter of collecting its revenue.”

In the case of *Cox v. Lott*, also cited as “State Tonnage Tax Cases,” 12 Wallace 204-220, discussing the question as to the character of a void tax, the Supreme Court of the United States said:

“Where the party assessed voluntarily pays the tax he is without remedy in such an action (an action to refund), but if the tax is illegal or was erroneously assessed and he paid it by compulsion of law or under protest or with notice that he intends to institute a suit to test the validity of the tax, he may recover it back in such an action, unless the legislative authority in the jurisdiction where the tax was levied, has prescribed some other remedy or has annexed some other condition to the exercise of the right to institute such a suit.”

In the suit of *Harold v. Kahn*, 159 Fed. 608-614, discussing the assignment of plaintiff in error, that the payment of the tax therein assessed, was not involuntary, the court said:

“In support of the first contention counsel for plaintiff in error cites numerous decisions of the Supreme Court, from which the proposition is sought to be induced that in addition to the protest there must be disclosed something like actual duress under which the paymen's sought to be refunded is made, as where duties are paid in order to obtain possession of goods held in the custody of a collector of customs. Undoubtedly in such cases, and especially where goods are perishable, the owner or claimant is compelled to pay the duties in

order to obtain possession of his property and avoid the loss incident to its detention. But these are not the only cases in which payments under protest will support an action for the refunding of money paid. Every demand by one clothed with official, legal authority to make the demand, imposes a certain compulsion on the one upon whom the demand is made. Such a demand is always exigent and places the recusant in a position of disadvantage. Especially is this so in regard to the payment of taxes, state or national. The proper administration of the fiscal affairs of the government require that the payment of taxes should not be delayed by disputes as to their legality, but that the taxes should first be paid, and all questions in regard to them be determined in suits brought for their refunding. It is a wise policy, therefore, that encourages the payment under protest, of disputed taxes. Though there is some conflict in the *dicta* of the Supreme Court, we think that the true doctrine is that the taxes are paid under protest; that they are being illegally exacted or with notice that the payor contends they are illegal and intends to institute suit to compel their repayment, a sufficient foundation for such a suit has been established."

Discussing the question as to whether taxes paid under duress and protest, levied under a tax law which is unconstitutional, Mr. Justice Holmes, in the case of the *Atchison, T. & S. F. Ry. Co. v. O'Conner*, 223 U. S. 280-287, said:

"It is reasonable that a man who denies the legality of a tax should have a clear and certain remedy. The rule being established that, apart from special circumstances, he cannot interfere by injunction with the state's collection of its revenues, an action at law to recover back what he has paid is the alternative left, of course, we are speaking of those cases where the state is not put to an action if the citizen refuses to pay. In these latter cases he can interpose his objections by way of defense; but where, as is common, the state has a more summary



remedy, such as distress, and the party indicates by protest that he is yielding to what he cannot prevent, the courts sometimes perhaps have been a little too slow to recognize the implied duress under which payment is made. But even if the state is driven to an action, if at the same time the citizen is put at a serious disadvantage in the assertion of his legal, in this case his constitutional rights, by defense in the suit, justice may require that he should be at liberty to avoid those disadvantages by paying promptly and bringing suit on his side. He is entitled to assert his supposed right on reasonably equal terms. \* \* \* In any event, the penalty would go on accruing during all the time that might be spent before the validity of the defense could be adjudged. As appears from the decision below, the plaintiff could have no certainty of ultimate success, and we are of the opinion that it was not called upon to **take the risk of having its contracts destroyed and its business injured, and of finding the tax more or less nearly doubled in case it finally had to pay.** In other words, we are of the opinion that the payment was made **under duress."**

The opinion in the O'Conner case is followed by the case of *Union Pacific R. R. Company v. Public Service Commission*, decided December, 1918, 248 U. S., page 67, wherein Mr. Justice Holmes, speaking for the court, said:

"On the facts we can have no doubt that the application for a certificate and the acceptance of it were under duress. The certificate was a commercial necessity for the issue of the bonds. The statutes, if applicable, purported to invalidate the bonds and threatened grave penalties if the certificate was not obtained. The railroad company and its officials were not bound to take the risk of these threats being verified. Of course, it was for the interest of the company to get the certificate. It always is for the interest of a party under duress to choose the

lesser of two evils. But the fact that the choice was made according to interest, does not exclude duress. It is a characteristic of duress so-called. \* \* \* The railroad company was not bound to take the risk of the decision, and no proceeding has been pointed out to us by which it adequately could have avoided evils that made it practically impossible not to comply with the terms of the law."

So, in this case, these claimants, while prosecuting all available remedies for the protection of their rights, should not be required to take the risk of a final determination of impending suits for the enjoining of the taxes upon their lands, and run the risk of losing their property by a final determination against them, which would result in the sale of their allotments under the tax laws of Oklahoma, and would result in the piling up of penalties at the rate of eighteen per cent per annum in addition to the original tax, had the final determination of *Choate v. Trapp, supra*, and companion cases been adverse to their claim of exemption under the treaty.

In *Patton v. Brady*, 184 U. S. 608-614, the court said:

"Appropriate remedy to recover back money paid under protest on account of duties or taxes erroneously or illegally assessed is an action of assumpsit for money had and received. Where the party voluntarily pays the money he is without remedy; but if he pays it by compulsion of law, or under protest, or with notice that he intends to bring suit to test the validity of the claim he may recover it back, if the assessment was erroneous or illegal, in an action of assumpsit for money had and received."

In the case of *Robertson v. Frank Bros.*, 132 U. S., pp. 17-27, the court said as follows:

"This point was discussed in *Maxwell v. Griswold*, 51

U. S. —, 10 How. 242, 256, and in *Swift Co. v. U. S.*, 111 U. S. 22-28. In *Maxwell v. Griswold* an appraisalment was erroneously made as to the point of time of the valuation, and the importer paid the consequent excess of duties. The government contended that this was voluntary. But the court said:

“ ‘This addition and consequent payment of the higher duties were so far from voluntary in him that he accompanied them with remonstrances against being thus coerced to do the act in order to escape a greater evil, and accompanied the payment with a protest against the legality of the course pursued towards him. Now, it can hardly be meant in this class of cases, that to make a payment involuntary it should be by actual violence or physical duress. It suffices if the payment is caused on the one part by an illegal demand and made on the other part reluctantly and in consequence of that illegality, and without being able to regain possession of his property, except by submitting to the payment. All these requisites existed here. We have already decided that the demand for such an increased appraisal was illegal. The appraisalment itself as made was illegal. The raising of the invoice was thus caused by these illegalities in order to escape a greater burden in the penalty. The payment of the increased duties thus caused was wrongfully imposed on the importer and was submitted to merely as a choice of evils. He was unwilling to pay either the excess of duties or the penalty, and must be considered, therefore, as forced into one or the other by the collector *colore officii* through the invalid and illegal course pursued in having the appraisal made of the value at the wrong period. \* \* \* The money was thus obtained by a moral duress not justified by law, and which was not submitted to by the importer except to regain possession of his property, withheld from him on grounds manifestly wrong. Indeed, it seems sufficient to sustain the action whether under the Act of February 26, 1845 (U. S. Rev. Stat. 3011), or under principles of the common

law, if the duties exacted were not legal, and were demanded and were paid under protest.' ”

It was further said in such opinion:

“When such duress is exerted under circumstances sufficient to influence the apprehensions and conduct of a prudent business man payment of money wrongfully induced thereby ought not to be regarded as voluntary. But the circumstances of the case are always to be taken into consideration. When the duress has been exerted by one clothed with official authority, or exercising a public employment, less evidence of compulsion or pressure is required,—as where an official exacts illegal fees, or a common carrier excessive charges. But the principle is applicable in all cases according to the nature and exigency of each.”

See, also:

*Swift v. United States*, 111 U. S. 22-28.

*Maxwell v. Griswold*, 10 How. 242-258.

Examination of authorities on this subject by counsel for petitioners induces them to believe that coercion and duress may be defined as a state of mind induced by threats or some actual or threatened exercise of power possessed or supposed to exist or be possessed, or an apparent capacity to enforce such threats or power, sufficient to overcome the volition and free action of the one against whom it is used. This definition is sustained by the several authorities collected in 11 Corpus Juris 945-946.

Coercion and duress are frequently used to convey the same meaning, although most authorities make a distinction by stating that duress consists in actual or threatened physical violence in order to overcome the will of the person.

Most of the cases heretofore cited under this subdivision did not deal with duress and coercion when applied to real

property, but counsel for petitioners assert that there can be no distinction. In a case in the Supreme Court of Minnesota, *Joannin et al. v. O'Gilvie et al.*, 49 N. W. 564, it is said:

"It has been sometime said that there can be no such thing as duress with respect to real property, so as to render the payment of money on account of it involuntary. But this is not sustained by either principle or authority. In view of the immovable character of real property, duress with respect to it is not likely to occur as often as with respect to goods and chattels. But the question in all cases is, was the payment voluntary? And for the purpose of determining that question, there is no difference whether the duress be of goods and chattels or of real property or of person," citing authorities.

The Supreme Court of Kansas, in *Ottawa University v. Board of Commissioners of Franklin County*, 116 Pac. 892, in discussing a case involving the recovery of money paid as taxes upon exempt lands, but in which no Federal treaty or Act of Congress is involved, said:

"There is no difference of rule in respect to involuntary payments of taxes upon real and personal property. The question in each instance is, whether the will of the tax-payer was constrained."

This court in *United States v. Huckabee*, 16 Wall. 414, in discussing coercion and duress, said:

"Positive menace of battery to the person, or of trespass to lands, or of destruction of goods, may undoubtedly be, in many cases, sufficient to overcome the mind and will of a person entirely competent, in all other respects, to contract, and it is clear that a contract made under such circumstances is as utterly without the voluntary consent of the party menaced as if he were induced to sign it by actual violence; nor is the reason assigned for the more stringent rule, that he should rely upon the law for redress, satisfactory, as the law may not afford

him anything like a sufficient and adequate compensation for the injury.”

In this case the recipient of the coercive measures and acts are Indian citizens. The defense of voluntary payment attempted to be enforced against them in this case is a harsh rule of forfeiture, and in the administration of the affairs of Indians the courts of the United States have, from the beginning, declined to apply ordinary rules of forfeiture against them, but on the contrary, have exercised a liberal construction at all times in determining their rights based upon the fact that the Indians belong to a class of people who are not well informed of their rights and therefore the necessity of liberal construction in determining all questions touching their persons and property. The Indian citizen is not on an equal footing with the county and its officers, and such inequality must be made good by superior justice. This court in *Choctaw Nation v. United States*, 119 U. S. 1-28, referred to the unequal positions of the Indian citizens and other persons and the government, and further this court in *Tiger v. Western Development Company*, 221 U. S. 286, refers to the Indian citizens as members of an inferior and dependent race, while in *Choate et al. v. Trapp et al.*, *supra*, this court said that in the government's dealings with the Indians the construction to be placed upon things in controversy, instead of being strict, is to be liberal, and doubtful questions are to be resolved in favor of a weak and defenseless people who are wards of the nation and dependent wholly upon its protection and good faith. And the court further said that this rule of construction has been recognized without exception for more than 100 years and has applied in tax cases.

This rule of liberality seems of such antiquity, and so

thoroughly established that counsel believes that further authority is unnecessary to recognition of the principles, and feel that its application in this case is alone sufficient to overcome the attempted acts of the respondent, Love County, to deprive these petitioners of their vested property rights.

### **THIRD SPECIFICATION OF ERROR.**

**The Oklahoma Supreme Court further erred in denying a recovery in this action since such judgment operates to deny the protection of the Federal exemption of tax secured under treaty contract with the Federal Government and protected by the Federal Constitution, Section 10, Article 1.**

The treaty of the Choctaw and Chickasaw Indians, which is contained in Act of Congress of June 28, 1898, 30 Stat. at L. 495-507, providing that the lands of the Indians, including these petitioners, would be non-taxable while the title thereto remained in the original allottee, not exceeding twenty-one years from the date of patent, was and is a contract protected by the provisions of Section 10, Article 1 of the Constitution of the United States, which section provides that no state shall make a law impairing the obligations of contracts.

The judgment of the Supreme Court of Oklahoma denying the claims of the petitioners is contrary to such Constitutional provision and is error, since it operates to deny them the protection of the Federal exemption as a contract as well as a Federal grant, by giving force to the taxing laws of the State of Oklahoma which were extended by the Constitution of the state in 1907, the advent of statehood, over the territory in which the allotments of these petitioners were situated, such extension of the state law being subsequent to the time when petitioners were allotted their lands in severalty.

The courts of Oklahoma now propose to justify the retention by Love County of the money on the ground that un-

der the tax laws of Oklahoma the payments were voluntarily made, which is simply enforcing a rule of state public policy against the Indians which results in abrogating and destroying the benefits of a Federal grant and impairing the treaty contract between the United States and such Indians.

In the case of *Choate v. Trapp*, 224 U. S. 665-679, discussing the identical question of tax exemption rights vested by the Choctaw and Chickasaw Treaty in the citizens of the tribes, this court says, after discussing the character of the property rights of the Indian citizens under the treaty:

"The question in this case, therefore, is not whether the plaintiffs are parties to the Atoka Agreement, but whether they had not acquired rights under the Curtis Act, which are now protected by the Constitution of the United States. \* \* \* And though it (the Curtis Act) provided for a division of the land in severalty, it offered a patent of non-taxable land only to those who would relinquish their claim on the other property of the tribe formerly held for their common use. For the Atoka Agreement, after declaring that, 'all land allotted shall be non-taxable,' stipulated further that each enrolled member of the Tribes should receive a patent framed in conformity with the agreement, and that each Choctaw and Chickasaw who accepted the patent should be held thereby to assent to the terms of the agreement, and to relinquish all his rights in the property formerly held in common.

"There was here, then, an offer of non-taxable land. Acceptance by the party to whom the offer was made, with consequent relinquishment of all claims to other lands, furnished a part of the consideration, if, indeed, any was needed, in such a case, to support either the grant or the exemption."

The operation of the theory of voluntary payment, which is the only defense in this case, can result in no other conse-



quence if permitted as a defense as a refund to the money paid as taxes, than to destroy the treaty exemption for and during the years the money was exacted and paid. As we had before stated, this rule is one of forfeiture and based purely upon a rule of state public policy and is in direct opposition to the Federal laws applied to Indian citizens and their property. Heretofore we have said that the rights of the Indian citizens must not be strictly construed and that no rule of forfeiture should be invoked against them.

At the conclusion of the discussion under the second assignment we referred to the holding of this court in *Choate et al. v. Trapp et al.*, relative to the liberality of construction in matters relating to the Indian citizens, their property and their contracts.

In relation to the contract character of the tax exemption in favor of these petitioners, Mr. Justice Lamar, who wrote the opinion of this court in *Choate et al. v. Trapp et al.*, cited *New Jersey v. Wilson*, 7 Cranch. 164, as being directly in point, and we quote the following excerpt from the New Jersey case, which was adopted by the Justice in the opinion, as follows:

“This court, speaking by Chief Justice Marshall, holds that ‘every requisite to the formation of a contract is found in the proceedings between the then Colony of New Jersey and the Indians. The subject was a purchase on the part of the government of extensive claims of the Indians, the extinguishment of which would quiet the title to a large portion of the province. A proposition to this effect was made, the terms stipulated, the consideration agreed upon, which was a tract of land with the privilege of exemption from taxation; and then, in consideration of the arrangement previously made, one of which this act of assembly is stated to be, the Indians executed their deed

of cession. This is certainly a contract clothed in forms of unusual solemnity. \* \* \*

Mr. Justice Lamar, continuing, stated further:

“The case here is much stronger. For the exemption, which adds value to the property, is not perpetual, but is attached to the land only so long as the Indian retains the title, and in no event to exceed twenty-one years. It is property, and entitled to protection as such, unless the fact that the owner is an Indian, subject to restrictions as to alienation, made a difference.”

We, therefore, assert in all confidence that the contractual character of the tax exemption to the Indian citizens, is established in this case beyond all controversy.

The Supreme Court of Oklahoma repudiates this Federal contract, which, by its own Constitution, it was bound to protect and enforce. The treaty in question cannot be, and is not, a “mere scrap of paper.”

After Oklahoma was admitted to the Union as a state the laws of the state were extended over the persons and the property of these petitioners and the tax laws of the state were in fact put into effect and enforced as to their lands, which, under the treaty contract, were exempt from taxation. The exempt lands being brought under the operation of the state tax laws subsequent to accepting their lands by allotment in severalty is in effect the same as a passage of a state statute imposing taxes upon such lands, which, if it is permitted to operate, as it has in effect in this case, to tax their lands, and then to destroy their remedy for the wrongful taxation of such lands, as the final judgment of the state Supreme Court does in this case, then we have a clear violation of Section 10, Article 1 of the Federal Constitution, pro-

viding in effect that no state shall make any law impairing the obligation of a contract.

We have heretofore referred to the fact that to deny a remedy is in effect a denial of the right, but at this time we desire to quote further from the opinion of this court in the case of *Bronson v. Kinzie et al.*, 1 How. 311, as follows:

“But it is manifest that the obligation of the contract, and the rights of a party under it, may, in effect, be destroyed by denying a remedy altogether; or may be seriously impaired by burdening the proceedings with new conditions and restrictions, so as to make the remedy hardly worth pursuing. And no one, we presume, **would say that there is any substantial difference between a retrospective law declaring a particular contract or class of contracts to be abrogated and void, and one which took away all remedy to enforce them, or encumbered it with conditions that rendered it useless or impractical to pursue it.** Blackstone in his Commentaries on the Laws of England (1 Vol. 55), after having treated of the declaratory and directory parts of the law, defines the remedial in the following words: ‘The remedial part of the law is so necessary a consequence of the former two, that laws must be very vague and imperfect without it. For, in vain would rights be declared, in vain directed to be observed, if there were no method of recovering and asserting those rights when wrongfully withheld or invaded. This is what we mean properly, when we speak of the protection of the law. When, for instance, the declaratory part of the law has said ‘that the field or inheritance which belonged, Titius’ father is vested by his death in Titius; and the directory part has forbidden any one to enter on another’s property without the leave of the owner; if Gaius, after this, will presume to take possession of the land, the remedial part of the law will then interpose its office, will make Gaius restore the possession to Titius and also pay him damages for the invasion.’

“We have quoted the entire paragraph, because it shows, in a few plain words, and illustrates by a familiar example, the connection of the remedy with the right. It is the part of the municipal law which protects the right, and the obligation by which it enforces and maintains it. It is this protection which the clause in the Constitution now in question mainly intended to secure. And it would be unjust to the memory of the distinguished men who framed it, to suppose that it was designed to protect a mere barren and abstract right, without any practical operation upon the business of life. It was undoubtedly adopted as a part of the Constitution for a great and useful purpose. It was to maintain the integrity of contracts, and to secure their faithful execution throughout this Union, by placing them under the protection of the Constitution of the United States. And it would but ill become this court, under any circumstances, to depart from the plain meaning of the words used and to sanction a distinction between the right and the remedy, which would render this provision illusive and nugatory; mere words of form, affording no protection, and producing no practical result.”

See, also:

*White v. Hart*, 13 Wallace 646-654.

*Green v. Biddle*, 5 Peters 369.

*Von Hoffman v. Quincey*, 4 Wallace 552.

*Ogden v. Saunders*. 12 Wheaton 231.

*Fletcher v. Peck*, 6 Cranch 87.

*Sturgis v. Crownshield*, 4 Wheaton 122.

*Beers v. Haughton*, 9 Peters 359.

*McCracken v. Hayward*, 2 Howard 612.

*Planters Bank v. Sharp*, 6 Howard 327.

#### FOURTH SPECIFICATION OF ERROR.

The judgment of the Oklahoma Supreme Court is error for the reason that it denies relief for the violation and destruction of a vested property right and leaves petitioners without any remedy whatsoever therefor. The right which is thus destroyed existing by virtue of a treaty with the United States and an Act of Congress such judgment of the state court not only overrides "the due process clause," but also denies operation of "the equal protection clause" of the Federal Constitution, violative of the 5th and 14th amendments thereof.

The judgment of the court below is error, because it denies relief to petitioners for the violation of vested property rights. Its effect is to leave them without any remedy. The right which it destroys rests upon a treaty contract with the United States which is contained in the Act of Congress of June 28, 1898, 30 Stat. at L. 495-507.

The tax laws of the State of Oklahoma operated oppressively on petitioners to deprive them of their property, not only without express authority, which is essential to the power to tax, and without which there can be no tax, but the purported power to tax was exercised in absolute violation of superior law which created and protected the exemption.

Not only does it operate in violation of law, which is not "due process," but its effect is also to deny petitioners the "equal protection" of law, in violation of the 5th and 14th amendments to the Constitution of the United States.

We have heretofore quoted from *Bronson v. Kinzie* under the preceding specification of error, but ask the indulgence of the court in again quoting therefrom the following paragraph:

"The remedial part of the law is so necessary a consequence of the former two, that laws must be very vague and imperfect without it. For, in vain would rights be declared, in vain directed to be observed, if there were no methods of recovering and asserting those rights when wrongfully withheld or invaded. This is what we mean properly when we speak of the protection of the law."

The tax laws of Oklahoma as put in operation by respondent county and the Oklahoma courts were not only void, but were in violation of a Federal law. Notwithstanding the fact that under their purported operation these petitioners have been deprived of their property, they have been met at all times with the defense, that notwithstanding the illegality and the injustice of the acts on the part of the taxing authorities of Love County and the protests and the efforts to prevent the same, they only yielding to what they could not prevent, and in order to avert a greater disaster, the payments were voluntarily made and not recoverable.

In the case of *Raymond v. Chicago Union Traction Company*, 207 U. S. 20 to 41, at page 36 of the opinion, the court said:

"The provisions of the 14th Amendment are not confined to the action of the state through its legislature, or through the executive or judicial authority. Those provisions relate to and cover all the instrumentalities by which the state acts, and so it has been held that whoever, by virtue of public position under a state government, deprive another of any right protected by that amendment against deprivation by the state, violates the constitutional inhibition; and as he acts in the name of the state and for the state, and is clothed with the state's powers, his act is that of the state. *Chicago, B. & Q. R. Co., v. Chicago*, 166 U. S. 226. Following the above case, the Federal courts, through the country, have frequently reviewed the action of taxing bodies, when, un-

der the facts, such action was in effect the action of the state, and, therefore, reviewable by the Federal courts by virtue of the provisions of the amendment in question. See *Nashville, C. & St. L. R. Co. v. Taylor*, 86 Fed. 168; *Louisville Trust Co. v. Stone*, 46 C. C. A. 299, 107 Fed. 305. In the last case, which related to enjoining the collection of alleged illegal taxes by reason of discrimination, the court said: 'It may be conceded that, if the allegations of the bill are made out, there exists, in respect to the property of complainant and others similarly situated, a systematic, intentional and illegal undervluation of other property by the taxing office' of the state, which necessarily effects an unjust discrimination against the property of which the plaintiff is the owner, and a bill in equity will lie to restrain such illegal discrimination, and that in such cases, Federal jurisdiction will arise, because of the equal protection of the laws guaranteed by the 14th Amendment.'

In the case of *Ex Parte Commonwealth of Virginia*, 10 Otto 339-370, 100 U. S. 339-370, this Court further said:

"The prohibitions of the 14th Amendment are directed to the States, and they are to a degree restrictions of state power. It is these which Congress is empowered to enforce, and to enforce against state action, however put forth, whether that action be executive, legislative or judicial. Such enforcement is no invasion of state sovereignty. No law can be, which the people of the States have, by the Constitution of the United States empowered Congress to enact. This extent of the powers of the General Government is overlooked, when it is said, as it has been in this case, that the Act of March 1, 1875, interferes with state rights. It is said the selection of jurors for her courts and the administration of her laws belong to each State; that they are her rights. This is true in the general. But in exercising her rights, a State cannot disregard the limitations which the Federal Constitution has applied to her power. Her rights do not

reach to that extent. Nor can she deny to the General Government the right to exercise all its granted powers, though they may interfere with the full enjoyment of rights she would have if those powers had not been granted. Indeed, every addition of power to the General Government involves a corresponding diminution of the Governmental powers of the States. It is carved out of them.

"We have said the prohibitions of the 14th Amendment are addressed to the States. They are: 'No State shall make or enforce a law which shall abridge the privileges or immunities of citizens of the United States, \* \* \* nor deny to any person within its jurisdiction the equal protection of the laws.' They have reference to actions of the political body denominated a State, by whatever instruments or in whatever modes that action may be taken. A State acts by its legislative, its executive or its judicial authorities. It can act in no other way. The Constitutional provision, therefore, must mean that no agency of the State or of the officers or agents by whom its powers are exerted, shall deny to any person within its jurisdiction the equal protection of the laws. Whoever by virtue of public position under a state government, deprives another of property, life or liberty without due process of law, or denies or takes away the equal protection of the laws, violates the Constitutional inhibition; and as he acts in the name and for the State and is clothed with the State's power, his act is that of the State. This must be so, or the Constitutional prohibition has no meaning. Then the State has clothed one of its agents with power to annual or to evade it.

"But the Constitutional Amendment was ordained for a purpose. It was to secure equal rights to all persons, and to insure to all persons the enjoyment of such rights, power was given to Congress to enforce its provisions by appropriate legislation. Such legislation



must act upon persons, not upon the abstract thing denominated a State, but upon the persons who are the agents of the State in the denial of the rights which were intended to be secured."

It was said in the case of *Scott v. McNeal*, 154 U. S. 34-51:

"The 14th article of amendment of the Constitution of the United States, after other provisions which do not touch this case, ordains, 'Nor shall any state deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.' These prohibitions extend to all acts of the state, whether through its legislative, its executive, or its judicial authorities. *Virginia v. Rives*, 100 U. S. 313, 318, 319; *Ex parte Virginia*, 100 U. S. 339, 346; *Neal v. Delaware*, 103 U. S. 370, 397. And the first one, as said by Chief Justice Waite in *U. S. v. Cruikshank*, 92 U. S. 542, 554, repeating the words of Mr. Justice Johnson in *Bank v. Okely*, 4 Wheat. 235, 244, was intended 'to secure the individual from the arbitrary exercise of the powers of government, unrestrained by the established principles of private rights and distributive justice.'"

Finally, in the *Choate v. Trapp case*, 224 U. S. 655-679, this court, in considering the character of the exemption conferred and enjoyed by these identical people, Mr. Justice Lamar said as follows:

"But there was no intimation that the power of wardship conferred authority on Congress to lessen any of the rights of property which had been vested in the individual Indian by prior laws or contracts. Such rights are protected from repeal by the provisions of the 14th Amendment.

"The Constitution of the State of Oklahoma itself expressly recognizes that the exemption here granted

must be protected until it is lawfully destroyed. We have seen that it was a vested property right which could not be abrogated by statute. The decree refusing to enjoin the assessment of taxes on the exempt lands of plaintiffs must therefore be reversed, and the case remanded for further proceedings not inconsistent with this opinion."

### CONCLUSION.

In conclusion, counsel for petitioners desire to refer to their statements on the concluding pages (26-28) of their brief defending the jurisdiction of this court in this cause, which question is to be considered by the court at the time of consideration upon the merits.

We hope that our former brief on the motion to dismiss, defending the jurisdiction of this court, together with this brief, upon the merits of the controversy, will be of material aid to the court in arriving at a just and proper decision of the matter in controversy. This brief is probably in repetition, to a small extent, of our other brief prepared more than a month ago, but such repetition seems unavoidable.

Upon consideration of the authorities and the reasons advanced herein, as well as those contained in our former brief, we respectfully insist that the judgment of the Supreme Court of Oklahoma in this cause is erroneous and should be reversed and remanded with instructions to such Supreme Court that it vacate same and render judgment for these petitioners.

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*Attorneys for Petitioners.*



in the Supreme Court of the United States

October Term, 1919

No. 224

COLEMAN J. WARD ET AL., *Petitioner,*

vs.

THE BOARD OF COUNTY COMMISSIONERS OF LOVE COUNTY,  
OKLAHOMA, *Respondent,*

On Writ of Certiorari to the Supreme Court of Oklahoma.

BRIEF OF RESPONDENT.

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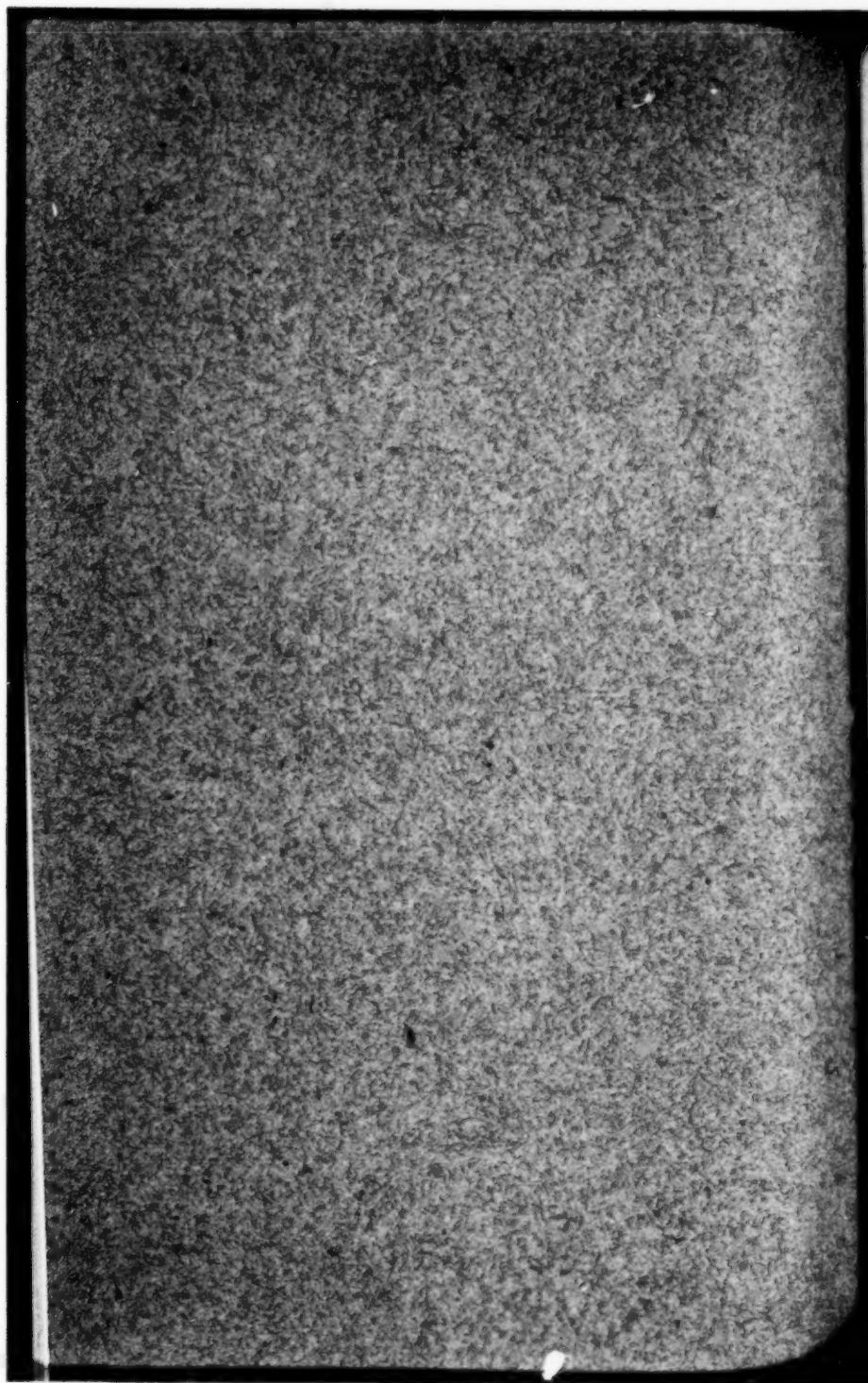
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SERVICE OF BRIEF.

ACKNOWLEDGMENT.

Service of this brief is acknowledged this 10 day  
of March, 1920.

Attorney for Petitioners Coleman J. Ward et al.

*Service Observed*

*Geo. P. Hays*



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# In the Supreme Court of the United States

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October Term, 1919

**No. 224**

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COLEMAN J. WARD ET AL., *Petitioner,*

VS.

THE BOARD OF COUNTY COMMISSIONERS OF LOVE COUNTY,  
OKLAHOMA, *Respondent,*

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On Writ of Certiorari to the Supreme Court of Oklahoma.

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BRIEF OF RESPONDENT.

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## STATEMENT.

With reference to abstract and statement, pages 1-12 of the brief of petitioner, we would beg leave to call the attention of the Honorable Court to the fact, that in refusing to enjoin the assessment of the Indian lands in question and the collection of the taxes thereon in the cases of *Gleason v. Wood*, and *Choate v. Trapp*, the courts of Oklahoma were



called upon to construe and apply certain Acts of Congress. The Act of June 28, 1898 (30 St. 495, c. 517), generally known as the Atoka Agreement, which made said lands non-taxable, and the later Act of May 27, 1908 (35 St. 312, c. 199), sections one and four of which apparently made said lands taxable. In the case of *Gleason v. Wood*, 28 Okla. 502, at page 516, Mr. Justice Dunn, who wrote the opinion, states, as his reasons for upholding the later act and holding the lands taxable under it, that "In the consideration of a law, all doubts are to be resolved in favor of its constitutionality. \* \* \* The act is a federal statute, and has been held valid by the federal court sitting within the jurisdiction where these lands lie, and this conclusion is strongly persuasive with us." It was, therefore, in deference to the Act of Congress and the decision of the federal court of the district that influenced the State Supreme Court of Oklahoma to uphold the Act making the lands taxable, and not any desire upon the part of the state officers or courts to impose unjust burdens of taxation upon the Indian citizens of the State of Oklahoma whose lands were involved. The case of *Choate v. Trapp*, 28 Okla. 517, but follows the case of *Gleason v. Wood*, the same question being involved.

The Supreme Court of the United States in the case of *Choate v. Trapp*, 224 U. S. 665, reversing 28 Okla. 517, in effect held that the provision for non-taxation of Indian

lands under Act of Congress of June 28, 1898 (30 St. 495), was a property right not subject to action of Congress, and that such provision was binding upon the State of Oklahoma, that it was a vested right and could not be abrogated by statute. The decree of the state court refusing to enjoin the assessment was in both cases reversed and the causes were remanded. In *Gleason v. Wood* the complaint sought to enjoin the assessment for taxation for the year 1909, 224 U. S. 679. It is to be observed that in neither case was any recovery sought of taxes paid, nor was any granted. This controversy arose out of the Act of May 27, 1908, as above pointed out, for which the state was in no wise responsible, the provisions of the state constitution upon the subject, being clear and not susceptible of a misconstruction. There shall be exempt from taxation "such property as may be exempt by reason of treaty stipulation, existing between the Indians and the United States Government, or by Federal laws, during the force and effect of such treaties or Federal laws" (Const. Okla., Art. 10, Section 6).

At page 9 of petitioner's brief it is contended that the petition alleges that Love County assessed, levied, collected, received and retained all the taxes paid, which are sought to be recovered, and that the demurrer thereto admitted these statements to be true. As this is the point discussed in his first specification of error we will answer it in the

consideration of such alleged error. What is said by petitioner on page 13 of his brief is connected with the point presented in his fourth specification of error, and will be considered in answering that point.

In reviewing this proceeding the state procedure elected and attempted to be followed by the petitioner in attempting to collect these claims from the county must not be lost sight of, for this is not an action at law, neither is it a suit in equity, brought in a court of general original jurisdiction against the county to recover taxes illegally assessed and paid to the county; but on the contrary, is a special proceeding under a state statute of Oklahoma (Rev. Laws, Sec. 1631, and ch. 186 Ses. Laws 1913, p. 416, *infra*), in which petitioner filed his claims for taxes paid on non-taxable lands with the county clerk of the county and presented the same to the board of county commissioners, the board of audit for the county, for allowance as a proper charge against the county which they should allow and cause to be paid out of the county funds (R. 202, 4-202).

This board is one of limited jurisdiction, its powers being defined and limited by the state law which created it, and whose powers and jurisdiction are not extended by any Act of Congress, Indian treaty or provision of the Constitution of the United States. This board has no equity jurisdiction like that of a court of general jurisdiction of the State of Oklahoma, and in considering these claims it only had au-

thority to ascertain whether they were itemized so that from them it might be determined what amount of the tax was county tax which the county had received and for which it might be liable and whether as to form these claims in all other respects complied with the requirements of the state law under which they were filed, and whether they were filed within the time required by law, and all requirements of law had been complied with requisite to give the board jurisdiction to allow such claims, and whether they could under the law be allowed as a proper charge against the county.

Having refused allowance of these claims (R. 202), an appeal under the statute was taken from the action of the board to the district court of the county (R. 202-203), and under this statute the matter was there considered *de novo*, the district court having only the jurisdiction of the inferior tribunal from which the appeal was taken and to consider the same questions presented to the board in the proceedings had before it (R. L. Okla. 1910, sects. 1640-1643, *infra*.)

The proceeding on appeal from the action of the board of county commissioners in disallowing the claims could not therefore be changed in the district court to an action at law or suit in equity to recover judgment on such claims against the county.

*Bostick v. Board of County Commissioners*, 19 Okla. 92, holding:

“3. Upon an appeal from the board of county commissioners, the district court takes appellate jurisdiction only, which is the jurisdiction that the inferior tribunal had and none other; and in such case the district court cannot convert such action into an action of equity and assume a jurisdiction of equity that the inferior tribunal did not have.”

*Parker v. Board of County Commissioners*, 41 Okla. 723, holding:

“2. Upon an appeal from the board of county commissioners, the district court takes appellate jurisdiction only; same being confined to the jurisdiction the board had and none other, to an inquiring, *de novo*, as to the very matter upon which the board was called upon to act. Such appeal cannot be converted into an action in equity, so as to enlarge the jurisdiction beyond that of the inferior tribunal.”

*Milam v. Smith Mauer Bros.*, 38 Okla. 328.

*Smith v. Board of County Commissioners*, 162 Pac. 463.

If, therefore, as contended by petitioner he was, because of the peculiar nature of his claims, and the status of the Indian allottees, entitled to equitable relief, in filing such claim with the board of county commissioners and in appealing from their order of disallowance he erred in the selection of his proceeding, for he should have brought his action in the district court in the first instance, which being a court of original equity jurisdiction, was clothed with jurisdiction to grant the relief sought by him.

The question as to whether the action of the board of

county commissioners was proper in rejecting the claims was presented to the district court by demurrer, and it was decided that the claims should be allowed. On appeal to the Supreme Court of Oklahoma the only question before the court, which involved the matters considered in its opinion, was, did the district court err in overruling the demurrer to the petition, which question presented again the sole question as to whether the board erred in disallowing the claim, and whether they had acted properly under the law of the state governing the presentation of claims against the county for allowance, in disallowing the claims, and the Supreme Court in deciding that the District Court erred in overruling the demurrer, decided that the board had acted properly in disallowing these claims. As we view this appeal to this court the only question properly presented in this appeal is a question of the proper construction of the state statutes of Oklahoma governing the presentation of claims to a board of county commissioners of a county in Oklahoma, and whether under such statutes in the rejection of the claims involved the board acted properly or erred under the state law governing their jurisdiction and procedure. This, of course, involves no federal question for this Court to determine, and the proceeding should be dismissed for the reasons pointed out in our brief and motion to dismiss.

## POINT I.

### First Specification of Error.

This specification of error is set forth and argued at pages 14-20 of petitioner's brief. The error alleged is:

"It was error for the Oklahoma Supreme Court to hold that no recovery could be had in this action because the respondent, Love County, may have paid out part of the tax money collected from petitioners to various subdivisions of the county, in the absence of a state statute authorizing it."

At page 9 of petitioner's brief is found a statement relating to the alleged error complained of, which statement is as follows:

"It is to be noted that in the entire petition no reference is made as to any part of the taxes assessed, levied and paid on these allotments belonging to any other subdivision of Oklahoma than the respondent, Love County. In each instance the allegation is made that Love County levied the taxes and that Love County received the taxes and that Love County retained the taxes. Counsel are calling attention to this fact at this time for the reason that in the first paragraph of the syllabus of the opinion in this case by the Supreme Court of Oklahoma and in the opinion itself, it is inferred that a part of the taxes levied and collected belonged to the school districts, townships or other subdivisions.

"The demurrer of the respondent, Love County, in the trial court admitting all the allegations of the petitioners to be true, it cannot be said by the Supreme Court of Oklahoma that any part of these taxes were for the use and benefit of any other than the respondent, Love County."

## ARGUMENT.

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The argument of petitioner on the merits and in his brief resisting the motion to dismiss this appeal rests largely upon the false premise, as above set forth, that the taxes sought to be recovered were assessed by respondent, Love County, and were levied by and paid to it and were retained by it, and that none of the taxes sought to be recovered were state, township, school district or other municipal taxes, which had been paid over to such other municipalities, under the law, and expended long before the claims of petitioner for a refund thereof by the county of Love had been presented to its board of county commissioners for allowance as a proper charge against the county.

The first paragraph of the syllabus to which petitioner objects is found at page 16 of his brief (R. 211), and is as follows:

“In the absence of a statute imposing liability therefor a county is not liable for taxes wrongfully collected by a county treasurer and by him paid over to the state or a municipal subdivision of the state other than the county against which liability is sought to be enforced.”

In that part of the opinion passing upon the point announced in the foregoing paragraph of the syllabus, it is pointed out that taxes are collected by and paid to the county treasurer, and are not collected by or paid to the county in the first instance as petitioner would have this



Court believe, and it is further pointed out therein that no taxes collected are paid into the county treasury except the county taxes, which are properly payable to the county. And it is further pointed out therein that there is no statute in Oklahoma making the county liable for taxes collected for and paid out to the state, and municipalities thereof other than the county. This part of the opinion is as follows (R. 212-213):

“When Section 14 of Chapter 152, Laws 1910-11, was held to be invalid there existed no statute making the county liable for the full amount of taxes collected by the county treasurer. When taxes are collected the county treasurer makes settlement with the state and the various municipalities thereof, paying to each that portion of the taxes properly belonging to it, and does not pay into the county treasury any of the taxes collected by him except that portion which is properly payable to the county.

“The petition does not separate the taxes so as to show what portion was paid to the state and to the various municipalities respectively.

“While the petition alleges that Love County caused the County Treasurer to collect such taxes and seeks to hold the county for the full amounts paid by claimants, there is no warrant in law for saying that the county should refund taxes which were not paid over to it.”

In answering the petitioner's argument on the first specification of error we treat the questions involved under the following six subdivisions:

**1. Municipal and Taxing Laws of Oklahoma and Judicial Notice or Knowledge Thereof.**

In holding as above set forth, the Supreme Court of

Oklahoma took judicial notice or knowledge of the laws of Oklahoma, in force when the taxes in question were levied and collected, with reference to municipalities, their powers, the manner in which taxes were levied, collected and distributed throughout the State of Oklahoma. It, therefore, took notice that the following facts existed by virtue of such laws, which are in part hereinafter cited and quoted:

That under such laws the state caused taxes to be levied annually, to pay the yearly expenses of the state, upon the taxable property of each county and to be collected by the county treasurer of each county, as the collecting agent of the state, and to be paid over by him at the end of every three months to the state auditor, so that no state taxes collected by the county treasurer remained in his hands longer than three months after he collected the same.

That under said laws, each county in the state was a body politic and corporate, with power to sue and be sued, and to levy taxes upon the taxable property within the county annually, which taxes were to be used for the purpose of defraying its proper corporate expenses, as a county, for the fiscal year, and that the county treasurer was by law made its collecting agent to collect county taxes, and that he was required to make distribution of funds collected by him monthly; that such county taxes were required to be paid at the same time, and were collectable in the same manner as all other taxes on real property, and that no tax was re-

ceived by the county or retained, used or disposed of by it except its own county tax.

That under said laws, each township in the state was also a body politic and corporate with power to sue and be sued and to levy taxes on property within the township annually for the purpose of defraying its proper corporate charges for the fiscal year as a township, and that the county treasurer of the county in which it was situate, was made its collecting agent to collect and pay over to its treasurer such township taxes, and that at monthly periods the county clerk drew a warrant on the county treasurer payable to the township treasurer for all township taxes collected for it during the preceding month.

That under said laws, each town within the state was a body politics and corporate, with power to sue and be sued, and to levy taxes on property within the town annually for the purpose of paying its proper charges as a town for the fiscal year, and that the county treasurer of the county in which it was situate was by law made its collecting agent to collect such town taxes, and that at monthly periods the county clerk drew a warrant on the county treasurer payable to the town treasurer for all such town taxes collected for it during the preceding month.

That under said laws, each school district within the state was a body politic and corporate, with power to sue and be sued, and to levy taxes on property within the school

district annually for the purpose of paying its proper charges as a school district for the fiscal year, and that the county treasurer of the county in which it was situate was by law made its collecting agent to collect such school district taxes, and that at monthly periods the county clerk drew a warrant on the county treasurer payable to the school district treasurer for all such school district taxes collected for it during the preceding month.

That under said laws all of the foregoing taxes were required to be paid in the same manner and at the same time, and that if any tax was levied on a tract of land all taxes were levied thereon at the same time, and that all said taxes were collected in the same manner, and that the same penalties were imposed for non-payment of all such taxes.

The constitution of the state contemplates that the legislature shall confer upon counties, cities, towns and other municipal corporations power to assess and collect their respective taxes.

Art. 10, Sec. 20 of the Constitution of Oklahoma, provides:

“The legislature shall not impose taxes for the purpose of any county, city, town, or other municipal corporation, but may by general laws confer on the proper authorities thereof, respectively, the power to assess and collect such taxes.”

The legislature has carried out the foregoing require-

ment of the constitution by enacting the laws hereinafter mentioned.

These powers to assess and collect taxes, as is shown by the laws hereafter cited and quoted, in some instances are exercised directly by the governing boards, and in other instances it is provided that such governing board of the municipality may require such assessment and collection to be made by some other board or authority pointed out by law, and as to the collection of such tax the county treasurer is made the collecting authority or agent of the respective municipalities.

A state is a political corporate body, can act only through agents, and can only command by law.

*Poindexter v. Greenhow*, 114 U. S. 270.

#### COUNTIES.

Const. Okla., Art. XVII, Sec. 1:

“Each county of this state \* \* \* shall be a body politic and corporate.”

Under Sec. 1497 of Rev. Laws 1910:

“Each organized county within the state shall be a body corporate and politic and as such shall be empowered for the following purposes:

“First. To sue and be sued. \* \* \* ”

Under Sec. 1500 of same laws the county shall sue and be sued in the name “Board of County Commissioners of the County of.....”

### TOWNSHIPS.

Under Sec. 8174 of the same laws:

"Each organized township shall be a body politic and corporate, and in its proper name may sue and be sued, and may appoint by its proper officers all necessary agents and attorneys in that behalf, and may make all contracts that may be necessary and convenient for the exercise of its corporate powers."

Comp. Laws Okla. 1909, Sec. 8726:

"TOWNSHIP BOARD AND ITS DUTIES. In each township in this state organized under the provisions of this chapter, there shall be a board of directors, composed of the township trustee, township treasurer and township clerk, whose duty it shall be: \* \* \* Third. To levy all taxes for township, road and bridge purposes.  
\* \* \*

(Ses. Laws Okla. 1897, p. 287). See R. L. Okla. 1910, Sec. 8178.

Claims against township may be presented to and allowed by township board.

Rev. Laws Okla. 1910, Sec. 8180:

"PRESENTATION AND ALLOWANCE OF ACCOUNTS. Any person having a claim or account against the township may file such claim or account in the office of the township clerk, to be kept by said clerk and laid before the township board at their next meeting: Provided, however, that any person having a claim against the township may present said claim to the township board himself, or by an agent, at any legally convened meeting of said board. Said board shall have the power to determine the legality or illegality of any claim or account against the township, or to reject said claim, or part

thereof, as to them appears just and proper; but in no case shall the township board be authorized to allow any claim, or any part thereof, until the claimant makes out a statement, verified by affidavit, to the amount and nature of his claim, setting forth that the same is correct and unpaid; or, if any part thereof has been paid, setting forth how much."

(Okla. Stat. 1893, Sec. 6028. Took effect March 14, 1893. For later statute see ch. 186 Ses. Laws 1913, p. 416 as to form of account. *Infra*.)

Ch. 32 Ses. Laws of Okla. 1909, p. 493, Sec. 29 provides:

"The township board of any township of this state shall levy a general road and bridge tax on all taxable property within their respective townships not to exceed five mills on the dollar of such taxable property, and such tax shall be collected in the same manner as other taxes are now collected by law, and the funds to the credit of any township shall be turned over to the township treasurer and shall be expended as the board of highway commissioners may in their discretion provide."

By Section 10 of said chapter, Sec. Laws Okla., p. 488, the township board of each township are made highway commissioners for such township.

Rev. Laws Okla. 1910, Sec. 8183:

"FUNDS—HOW RAISED. The money necessary to defray the township charges of each township shall be levied on taxable property of each township in the man-

ner prescribed in the general revenue laws for state and county purposes.”

(Took effect March 14, 1893.)

Comp. Laws Okla. 1909, Sec. 8735:

“The township board of directors shall make out an account of the amount of money necessary to defray the township expenses during the next ensuing year; said account shall be made out not more than sixty nor less than twenty days prior to the meeting of the county commissioners at which the assessment for county purposes is made. Said account shall be signed by the president of the board and attested and filed with the clerk of the county on or before the first day of said session of the county commissioners, who shall cause the same to be placed upon the tax books of said township. \* \* \*

(Took effect in 1893.)

(See later act which took effect June 17, 1910, R. L. Okla. 1910, Sec. 7378 *infra*.)

#### TOWNS.

Under Sec. 678 of Rev. Laws Okla. 1910:

“The president and trustees of such town and their successors in office shall constitute a body politic and corporate, by the name of the ‘town of .....,’ and shall be capable in law to prosecute and defend suits to which they are a party.”

Under Sec. 680:

“The board of trustees shall have the following powers, viz: \* \* \* Fifteenth. To provide for annual taxes.”



Comp. Laws 1909, Sec. 856:

“BOARD OF TRUSTEES DETERMINE AMOUNT OF TAX. The board of trustees shall before the third Monday of May of each year determine the amount of general tax for the current year.”

(Took effect in 1893. See later act R. L. 1910, Sec. 7378, *infra*.)

Same laws, Sec. 858:

“When the assessment roll shall have been corrected and completed the trustees shall levy a tax upon the taxable property of said town to such an amount as they may deem necessary, and shall set opposite the name of each person taxed a description and valuation of the property charged therewith and the amount of tax assessed against such person; \* \* \* . The assessment roll and tax list shall be deposited with the county treasurer who is hereby charged with the safe custody of the same.”

(Took effect in 1893.)

Rev. Laws Okla. 1910, Sec. 697:

“HOW TAX COLLECTED. The treasurer of such county shall collect the corporation taxes, upon such duplicate as other taxes are collected, and pay the same over to the treasurer of such corporation. The county treasurer shall be allowed and paid by the corporation the same compensation as is paid by the county for like services.”

(Took effect December 25, 1890.)

#### SCHOOL DISTRICTS.

Rev. Laws Okla. 1910, Section 7779:

“CORPORATIONS. Every school district organized in

pursuance of this article shall be a body corporate, and shall possess the usual powers of a corporation for public purposes by the name and style of school district.... (such number as may be designated by the county superintendent) \* \* \*, and in that name may sue and be sued, and be capable of contracting and being contracted with, and hold such real and personal estate as it may come into possession of by will or otherwise, or is authorized by law to be purchased."

(Stat. Okla. 1893, Sec. 5765.)

Rev. Laws Okla. 1910, Sec. 7795:

"OFFICERS OF DISTRICT. The officers of each school district shall be a director, clerk and treasurer, who shall constitute the district board. \* \* \*"

(Comp. Laws Okla. 1909, Sec. 8081. Ses. Laws of Okla. 1907-8, p. 399.)

Comp. Laws Okla. 1909, Sec. 8117:

"TAXES. It shall be the duty of the school district board of the various school districts of the respective counties of the state to cause to be certified by the school district clerk to the county clerk of their respective counties, on or before the twenty-fifth day of August, annually, the aggregate percentage by them levied on the real and personal property in each district, as returned on the assessment roll of the county; and the county clerk is hereby authorized and required to place the same on the tax roll of said county, in a separate column or columns, designating the purpose for which said taxes were levied; and the said taxes shall be collected by the county treasurer and paid over to the treasurers of the respective school districts in the county, with the same power and restrictions and under the same regulations and in all respects, as to the sale of real and personal

property. He shall be authorized, and is hereby required, to act according to the provisions and requisitions of the law for the collection of the taxes for state, county and township purposes."

(Okla. Stat. 1893, Sec. 5805.) For later act see Sec. 7378, Rev. Laws Okla. 1910, *infra*.

#### STATE TAXES.

Rev. Laws Okla. 1910, Sec. 7377:

"AUDITOR TO TRANSMIT STATE RATE TO COUNTY CLERK. On or before the first Monday in June of each year the state auditor shall transmit to the county clerk of each county a statement of the rate of taxation required in said county for the general state tax as computed by the state board of equalization."

(Ses. Laws Okla. 1909, Ch. 38, Art. 8, Sec. 1, p. 600. Took effect March 10, 1909; Comp. Laws Okla. 1909, Sec. 7623.)

A later law governing assessment and levy of taxes.

Rev. Laws Okla. 1910, Sec. 7378:

"ANNUAL ESTIMATE OF MUNICIPAL EXPENSES. Each board of county commissioners, the mayor and council of each city, \* \* \* the board of trustees of each incorporated town, the directors of each township, the board of education of each city and the directors of each school district, shall meet on the first Monday of July of each year, and shall respectively make out an itemized statement of the fiscal condition of their respective municipalities and of the estimated needs thereof for the current expenses of the ensuing fiscal year." (What each such estimate is required to show is set forth next in the section.) "Each estimate for county, city, incorporated town, township and school district purposes, as prepared \* \* \* shall be published in some newspaper published in each such county, city, incorporated town, township and school district. \* \* \*" (If no paper is

published in the municipality five notices must be posted therein.) "Said publication shall be made in each instance by the board or authority making the estimate.  
\* \* \* "

The section further provides that after publication the estimate shall be certified to the excise board of the county.

(Ses. Laws Okla. 1910, p. 110, Ch. 64, Sec. 2. Took effect June 17, 1910.)

Section 7380 of Rev. Laws 1910, requires the county excise board to meet on the last Saturday in July of each year for the purpose "of examining the estimates of expenses for the county, and for each city, town, board of education, township and each school district therein. \* \* \* They shall have power to revise and correct any estimate certified to them where the amount thereof is in excess of the just and reasonable needs of the municipality for which the same is made. When they have approved each estimate, \* \* \* they shall thereupon make the levy therefor, \* \* \*. The levy so made by them shall be certified to the county clerk, who shall extend the same upon the tax roll.' "

(Ses. Laws Okla. 1910, p. 111, Ch. 64, Sec. 4. Took effect June 17, 1910.)

Duty of county clerk and treasurer—How tax books and rolls are made out:

R. L. Okla. 1910, Sec. 7359:

"HOW TAX BOOKS MADE OUT. The county clerk of each county, in making out the tax books for each county, shall consolidate all state taxes under one heading; he shall also consolidate all the county, township and municipal levies and extend each under the one head in a column by itself; the district school levy shall be extended separately and in a column by itself."

(Laws 1909, p. 597. Took effect March 10, 1909.)

Same laws, Sec. 7360:

“In making out the tax books and extending the tax, the county clerk shall separate and extend such tax by municipal townships.”

(Laws 1909, p. 597. Took effect March 10, 1909.)

Section 7368 of Rev. Laws of Okla. 1910, provides that as soon as practicable after the taxes are levied the county clerk shall make out a list of all taxable lands in the county, with the valuation of each tract and the amount of taxes, and if any delinquent taxes the same is set down in a separate column. This is the tax roll. (Ses. Laws 1909, p. 602.)

Section 7387 of the same laws provides:

“The tax roll when completed shall be delivered to the county treasurer on or before the first day of October following the date of levy for the current year.”

(Ses. Laws Okla. 1909, p. 603. Both last above sections took effect March 10, 1909.)

Duty of county treasurer to collect all taxes:

Section 7356 of the same laws provides:

“The county treasurer of each county upon receipt of said tax rolls, shall proceed with the collection of the taxes as therein extended, issuing in triplicate receipts upon all collections, delivering the original to the taxpayer and filing the triplicate with the county clerk; Provided, that said receipt shall be in manner and form the same as the tax rolls and shall have printed on them

the several items of levy, by and upon which tax is authorized and collected, and shall have endorsed thereon in red ink the amount of delinquent taxes levied against the property."

(Ses. Laws Okla. 1909, p. 596. Took effect March 10, 1909.)

Duty of county treasurer to make distribution of tax collected:

Rev. Laws of Okla. 1910, Sec. 7363:

"COLLECTIONS DISTRIBUTED MONTHLY. At the end of each calendar month the county treasurer shall apportion all collections for said month, and distribute the same among the different funds to which they belong."

(Ses. Laws Okla. 1909, p. 597, Ch. 38, Art. 5, Sec. 13. Took effect March 10, 1909; Comp. Laws Okla. 1909, Sec. 7613.)

Duty of county treasurer to pay over state taxes collected:

Rev. Laws of Okla. 1910, Sec. 7423:

"COUNTY TREASURER TO PAY OVER STATE FUNDS—WHEN. The treasurers of the several counties shall pay into the state treasury all funds in their hands belonging thereto on or before the third Monday of the months of January, April, July and October."

(Ses. Laws Okla. 1909, p. 617, Ch. 38, Art. 10, Sec. 1. Took effect March 10, 1909, p. 624; Comp. Laws Okla. 1909, Sec. 7657.)

Duty of county treasurer to make report of taxes col-

lected and apportioned monthly, duty of clerk to draw warrants:

Rev. Laws Okla. 1910, Sec. 7364:

“TREASURERS MONTHLY STATEMENT. The county treasurer shall, at the end of each month, after apportioning the collections of that month, make a statement to the clerk of the amount apportioned each town, city, municipal township and school district for all moneys which are required by law to be paid to the treasurers of such towns, cities, municipal townships and school districts by the county treasurer, and the county clerk shall issue a warrant for the amount shown by the statement of the county treasurer, payable to the treasurer of such town, city, municipal township and school district; \* \* \*.”

(Ses. Laws Okla. 1909, p. 597, Ch. 38, Art. 5, Sec. 14. Took effect March 10, 1909, p. 624; Comp. Laws Okla. 1909, Sec. 7614.)

The method of collecting all delinquent taxes on real estate is provided in Article 9 of Chapter 72 of Rev. Laws Okla. 1910, Sections 7389-7422, which are not quoted here, because of their great length. They may be summarized as follows: The county treasurer advertises for sale real property on which taxes are delinquent each year and sells the same for taxes, 18 per cent interest thereon, and 25 cents penalty on each tract other than town lots, and issues to the purchaser a certificate of purchase. The owner may redeem at any time within two years by payment of amount due. If the land is not redeemed at the end of two years after the sale, the holder of the certificate of purchase may obtain a

tax deed by surrender of his certificate and otherwise complying with the requirements of the law as to service of notice, publication, etc.

**2. Love County was not liable for the taxes collected for and paid to the state and townships, towns, and school districts.**

It is to be noted that of the 67 claims filed by petitioner with the board of county commissioners for allowance as a charge against Love County (R. 4-202) in but few instances was payment made of taxes by allottees after the Supreme Court of the United States had decided that the Indian lands in question were non-taxable in the case of *Choate v. Trapp*, 224 U. S. 665, on May 12, 1912, and that these 67 claims were not filed with the board for allowance until three years five months and thirteen days after the determination of that case, or until October 25th, 1915 (R. 202).

Hence the Supreme Court of Oklahoma further took judicial notice or knowledge of the fact that under the Oklahoma laws above cited, at the time these claims were finally filed with the county clerk for allowance by the board of county commissioners, all state taxes collected by the county treasurer from these allottees had long since been paid over to the state and expended by it, and that likewise all such taxes collected by him for the county had been paid into the county funds and expended, and likewise all such taxes collected for the other municipalities had long since been paid



by him to them and had been expended by them, so that, at the time such claims were so filed, none of such taxes so paid were in the hands of the county treasurer of Love County, the respondent.

Hence the Supreme Court of Oklahoma, after pointing out the absence of any statute making the county liable for taxes so collected and paid out to the state, townships, towns and school districts, held that Love County was not liable for such taxes.

We fail to grasp the import of any equitable principles or considerations urged by the petitioner which would make the respondent county liable for taxes levied by and collected for the state through its tax collecting agency appointed by law, and already paid over to the state and expended by it, and likewise we fail to see by what principles of equity the county should be liable for township taxes levied and collected by the township through its agent appointed by law and paid over and expended by it, and likewise with the town taxes, and school district taxes. As we have seen, all of these municipalities had the power to sue and be sued, and if the county is to be held liable for all these taxes because of any equitable considerations, by the same rule petitioner might have filed all these claims with any township clerk and demanded that its board allow all state, county, township and school district taxes so paid because

the county treasurer collected and paid over to it its township taxes levied on these exempt lands within the township, and likewise he might have sued any school district to recover all these taxes upon the same ground.

That in order to recover such taxes after the same had been collected and paid over to the state and the various municipalities, it would be necessary to institute suit against the various municipalities to recover the amount of tax received by each respectively, and that one municipality could not be picked out and recovery had against it for all taxes collected and paid over to all, is recognized as one of the grounds for granting injunctive relief to prevent the collection of an unjust tax by this Honorable Court in the case of *Raymond, Treasurer of Cooke County, v. Chicago Union Trac-Company*, 207 U. S. 20, holding:

“3. Where a corporation had paid the full amount of its tax as based upon the same rate as that levied upon other property of the same class, equity will restrain the collection of the excess illegally assessed, there being no adequate remedy at law, when it appears that it would require a multiplicity of suits against the various taxing authorities to recover the tax and that a portion of it would go to the state against which no action would lie.”

The holding of the Supreme Court of Oklahoma is also upheld by the following authorities:

Dillon, *Municipal Corporations*, Vol. 4 (5th Ed.):

Sec. 1616. ACTION TO RECOVER BACK ILLEGAL TAXES. An important class of actions, in form *ex contractu*, remains to be noticed. We refer to actions against municipal corporations to recover back money paid to them for taxes. They are usually brought in assumpsit for money had and received, and are equitable in their nature; and hence they will not lie, in the absence of statutory provisions, except for money actually paid to the corporation, and which it is against equity and good conscience that it should retain. \* \* \*."

"Sec. 1617. *Same Subject. Elements of Liability.* Actions against a municipal corporation to recover back money upon the ground of the illegality of the tax or assessment are, upon principle and the weight of authority, maintainable when, and in general only when (if there be no statute enlarging the liability) the following requisites co-exist: 1. The authority to levy the tax, or to levy it upon the property in question, must be wholly wanting, or the tax itself wholly unauthorized, in which case the assessment is not simply irregular, but absolutely void.

"2. The money sued for must have been actually received by the defendant corporation, and received by it for its own use, and not as agent or instrument to assess and collect money for the benefit of the State, or other public corporation or person.

"3. The payment to the plaintiff must have been made upon compulsion, as, for example, to prevent the immediate seizure of his goods or the arrest of the person, and not voluntarily.

"Unless these conditions concur, payment under protest will not, without statutory aid, give a right of recovery."

It is to be here observed with reference to the taxes in

question, that the authority to levy them was wholly wanting, hence they came within the first requisite of the foregoing section, and that petitioner claims that they come within the third requisite of the section as being taxes paid under compulsion; but the existence of both the requisites and conditions of the first requisite and second requisite do not make all these taxes collectible against the county, because to be recoverable all three requisites must co-exist, and as we have shown the money for state, township, town and school district taxes was not in fact received by the county, and was not for its own use, and hence the second requisite is entirely wanting and non-existent, therefore there is no liability upon the county to repay state, township, town and school district taxes collected by its county treasurer and paid over by him to them.

*Union Bank v. Mayor, etc.*, 51 Barb. (N. Y.) 159, at pages 183-184.

*B. & M. R. Co. v. Buffalo County*, 14 Neb. 51, at p. 54.

*Shoemaker v. Board of County Commissioners*, 36 Ind. 175.

*Stone v. County of Woodbury*, 51 Iowa 522.

*Proce v. Lancaster County*, 18 Neb. 199, 24 N. W. 705,

holding:

“1. Where a county treasurer collects and pays over taxes for the state and for school districts and other municipalities, less than and within the county, such county is not liable to the tax payer for such taxes, even

if illegally levied; and this would be true whether he sought to recover back such taxes under the provisions of the revenue law, or as a general creditor of the county."

In the opinion it is said:

"\* \* \* the county could not be held for the repayment of the taxes collected for the state, or any of the municipalities less than the county. \* \* \*

"But plaintiff insists that he is not seeking to recover under any of the provisions of the revenue law, but upon the ground that 'defendant has money in its possession belonging to plaintiff that he has wrongfully and illegally been forced to pay, and that he has a general right of recovery for the amount thereof.' We are unable to agree to this proposition. The county was made by law the agent of the state, as well as of the lesser municipalities within the county, for the collection of the taxes due them. \* \* \* the taxes, other than county taxes, could in no sense be said to be a claim against the county."

In that case the county board disallowed the claim for a refund of taxes paid by plaintiff, he appealed to the district court from their order, where defendant demurred. The court sustained the demurrer, and its judgment was affirmed on appeal.

*Meacham v. Town of Newport*, 70 Vt. 264, 40 Atl. 729, holding:

"4. A taxpayer cannot recover town school-district taxes illegally collected, where the town has paid them to the district, which covers only a portion of the town, before suit is brought.

"5. A town is liable in general assumpsit for taxes

illegally collected only when it has them in its possession."

We quote from the opinion:

"5. A town is liable in general assumpsit for taxes illegally collected only when it has them in its possession."

"The plaintiff contends that he is entitled to recover the amount paid by him as town school-district tax. This was not in the town treasury when the suit was brought. It is found that the defendant had before paid it to the treasurer of the town school district. In the defendant town, the town school district covers only a portion of the town, and had a grand list of only about one fifth of the grand list of the whole town. We do not think that the town could compel the town school-district to return this sum, any more than it could compel the return of that which it had paid to the state treasurer. The town no more had this sum in its possession or control than it did the sum which it had assessed, collected from the plaintiff, and paid over to the state treasurer. If it had to pay it to the plaintiff, it must collect it from all its taxpayers, many of whom can and will receive no benefit from it. Besides, in this form of action, the town is liable only for money belonging to the plaintiff which it holds without right. It does not hold the claimed sum. There was no error in denying his right to recover it." The action was general assumpsit.

*Commonwealth, etc., v. Boske et al.*, 30 Ky. Law 400,  
99 S. W. 316, holding:

"Where taxes have been wrongfully collected by coun-

ty officials and are in the hands of the collecting and disbursing officers, a direct action may be brought by the taxpayer against the person holding the taxes, but a taxpayer cannot maintain an action against a county to recover taxes illegally and wrongfully exacted by the county officers, after the taxes have been paid out by the disbursing officers."

*Wilson v. Board of Commissioners of Allen County, et al.*, 99 Kan. 586, 710, 162 Pac. 1158, holding:

"The payment of school taxes without protest and in the belief that the land constituted part of a school district comprising a city of the second class is a voluntary payment, and, after the taxes have been paid over to the board of education, and have been distributed for school purposes, it is too late for the landowner to maintain an action to recover them on the ground that the land had been detached from the district in which they had been assessed."

*Commissioners of Pawnee County v. A. T. & S. F. R. Co.*, 21 Kan. 748.

The last case cited was an action brought by the railroad company against the board of county commissioners to recover back certain taxes paid by it to the county treasurer, alleged to have been illegal, and paid under protest and to prevent the issuing of warrants for their collection. Defendant demurred to the petition which was overruled and the county appealed, and upon appeal the trial court was reversed. Valentine, J., who wrote the opinion, gives as his grounds therefor at page 750:

"The county treasurer, and not the county commissioners, collected these taxes. They were collected for certain school-districts, and not for the county or county commissioners. And it does not seem that a single cent of them was ever placed to the credit of the county or the county commissioners. Whether the county treasurer has paid them over to the respective school districts or still holds them, is not shown. Probably he has paid them over to the districts, for it was his duty to do so under the law. \* \* \* Everything that has been done concerning said taxes, has been done by the school districts, respectively, and by the county treasurer; and not a thing has been done by the county or county commissioners. And it has been done for the benefit of said school-districts, and not for the benefit of the county or the county commissioners. Now, as neither the county nor the county commissioners have ever done any wrong as against the railroad company, as they have not ratified any wrong, and as they have not received the benefit of any wrong, how can they be held liable? We think they are not liable."

So with reference to the state, township, town and school district taxes levied on the non-taxable Indian allotments and collected by the county treasurer, and paid over as required by the statutes heretofore quoted, the same may be said, with reference to the non-liability of the county therefor, as is said with reference to the non-liability of the county for school taxes wrongfully collected of the railroad company in the foregoing case.



**3. The Supreme Court of Oklahoma was warranted in disregarding the allegations of mere conclusions in the petition, that Love County assessed, levied, collected and retained all the taxes sought to be recovered, and same were not admitted by demurrer.**

We have already pointed out that under the statutes Love county collected none of the taxes in question, that all were collected by the county treasurer, as the collecting agent for the state, the county, the towns, townships and school districts, and that the county never received, used, or retained any of the taxes except the portion levied for its proper county purposes. So that the allegation, of the existence of a state of facts, in the petition which could not exist under the statutes in force, would not be admitted by demurrer, being mere conclusions, the court taking judicial notice of the law and that such alleged conditions did not exist.

We cite the following authorities in support of the foregoing proposition:

*Williams v. Stewart, Tax Collector*, 115 Ga. 864, 42 S. E. 256, holding:

“1. Where an officer not authorized to issue a warrant notifies a person that he will have him arrested on a warrant, and prosecuted, unless he pays a certain tax, and such person, because of such threat, pays the tax, the payment is voluntary, under Civ. Code, sec. 3723, and the money paid cannot be recovered.

“2. A petition seeking to recover money so paid is

subject to demurrer, although it alleges that such payment was made under an urgent and immediate necessity therefor, and to prevent an immediate seizure of the plaintiff's person and property. These averments are but conclusions of law, and can avail nothing, where it appears that the facts upon which they are based make the payment a voluntary one."

*Prichard v. Commissioners, etc.*, 36 S. E. 353 (N. C.), holding:

"5. Where a complaint pleads a statute which has no existence, and is not a law of the state, a demurrer to the complaint admits only the facts alleged therein, and has not the effect to admit the existence of the statute."

So where allegations in complaint are contrary to an act of the legislature, such allegations are not admitted by a demurrer.

*People v. Company*, 50 Pac. 305 (Calif.), holding:

"3. On demurrer to a complaint, the court may take judicial notice of a legislative land grant, though the allegations of such complaint are contrary to such grant."

In passing upon this point the court say at p. 308:

"Why should a general demurrer to a complaint be overruled, and the parties be required to proceed to the trial of an issue of fact, when the court, looking to a law of which it is bound to take notice, can see that one of the essential allegations of the complaint can never by any legal possibility be proved?"

*Henderson v. McMaster*, 88 S. E. 645 (S. C.), holding:

"1. A demurrer admits facts, but not constructions of statutes or conclusions of law or fact.

“13. The allegation that by reason of enactment of a statute a foreign insurer was compelled to withdraw from the state is a conclusion of fact, and is not admitted on demurrer.”

In that case a statute was alleged to be unconstitutional. “In that, ‘the state warehouse commissioner is authorized to take any and all kinds of insurance on all classes of property, at any rates he may see fit, while the petitioner cannot accept any risk, and therefore is deprived of his property without due process of law, and is denied the equal protection of the law.’ A demurrer admits facts, but not constructions of statutes or conclusions of law or fact.”

*Brown v. Avery*, 58 So. 34 (Fla.), holding:

“4. A demurrer admits all such matters of fact as are sufficiently plead, but allegations of mere conclusions of law are not admitted by a demurrer, for the law is to be ascertained by the court.

“5. A demurrer does not admit as true allegations which the law would not allow to be proved.”

*Heiskell v. Knox County*, 177 S. W. 483 (Tenn.) holding:

“2. Judicial notice of legislative journals, showing the proper enactment of a statute, may be taken on demurrer to a bill, charging that a statute was not regularly enacted; a demurrer not admitting allegations contrary to facts judicially known to the court.”

*Fey v. Rossi, etc., Co.*, 139 Pac. 908 (Cal. App.), holding:

“2. In an action to cancel a lease, a demurrer did not admit the allegations of the complaint as to the enactment, scope and effect of a statute relied upon as

making performance impossible, since a demurrer does not admit conclusions of law or facts of which the court may take judicial notice."

*French v. Senate etc.*, 80 Pac. 1031 (Cal.) holding:

"6. Allegations of a pleading which are unnecessary and which are contrary to facts of which judicial notice is taken are not admitted by demurrer, but will be treated as a nullity."

*McLane v. Paschal*, 28 S. W. 711 (Tex. Civ. App.) holding:

"4. An allegation in a petition that the Revised Statutes are invalid is not admitted by a demurrer, the court taking judicial notice of their validity."

31 Cyc. page 337 and cases cited in support of the text.

**4. The Supreme Court of Oklahoma found that the petition did not separate the taxes so as to show what portion was paid to the state and to the various municipalities. Hence it did not show what portion was paid to the county for which it might be liable, and not being so itemized, the board of county commissioners did not err in disallowing the claims.**

The Supreme Court of Oklahoma in its opinion (R 212) points out the statute of the state of Oklahoma prescribing the procedure which petitioner, referred to as defendant in error, had elected to follow in his attempt to recover the taxes paid from respondent county, in the following language:

"Defendants in error say, however, that sections 1 and 2 of chapter 186 Session Laws, 1913, page 416, confers au-

thority upon the board of county commissioners to allow and order paid the demands which form the basis of this litigation.”

The sections cited are as follows:

*“Claims to be Itemized and Verified—Filing.*

“Section 1. All claims for money due from any county, township, city or incorporated town shall be itemized in detail, verified and filed for allowance with the proper authority not less than five days before the meeting of such body for such purposes. Such verified claims shall show in detail the amount due on each item, the date thereof, the purpose for which each item was expended, and such other facts as are necessary to show the legality of such claim and each item thereof.”

*“Examination and Allowance of Claim.*

“Section 2. The proper authority of each county, township, city or incorporated town authorized by law to allow claims shall examine into each claim so filed for allowance at the meetings authorized by law to make such allowance, and if the same, or any part thereof, is found to be correct and is in compliance with section 1 of this act, the same shall be allowed for payment and a warrant issued therefor.”

Section 3 of the same chapter provides:

“Any member of the board of county commissioners, township board, city council, board of trustees of incorporated town, knowingly, willfully and intentionally allowing any claim or entering into any contract on the part of such county, township, city or incorporated town, not specifically authorized by law, shall be deemed guilty of a felony \* \* \*.”

As to allowance of claims against the county by the

board of county commissioners the Rev. Laws Okla. 1910 provide:

“Section 1631. No account shall be allowed by the county commissioners unless the same shall be made out in separate items, and the nature of each item stated; \* \* \* which account so made out shall be verified by affidavit setting forth that the same is just and correct and remains due and unpaid which account shall be regularly filed with the county clerk five days before first day of the meeting of the county commissioners. \* \* \* .”

Both section 1 of Ch. 186, Ses. Laws 1913, and Sec. 1631, *supra*, provide that the account filed against the county for allowance as a proper charge against the county by its board of county commissioners be itemized, to the end that from an examination of the account itself, and without any other evidence or data, the board of county commissioners may ascertain from the items whether they are a proper charge against the county which they can lawfully allow, or may be able to pick out from the account such items as are allowable and the sum due thereon, and may allow the same for the amount due thereon, and reject such items as are not allowable against the county, and disallow the same. And it is to be noted that if the account is not itemized as required, its allowance is prohibited by the first words of section 1631 *supra*.

The Supreme Court found in its opinion that the claims

did not comply with the requirements of the law above quoted, for the court say (R. 213):

“The petition does not separate the taxes so as to show what portion was paid to the state and to the various municipalities respectively.”

The claims therefore were not so itemized as to show what part of the taxes were levied for county purposes and were collected for and used or retained by the county, and the amount of such county taxes paid, so that the board could ascertain from the claims or petition for what amount they might be allowed as a proper charge against the county. The claims are for the whole amount of taxes, state, county, township and school district paid on the lands for each year, and the totals for all years paid, and the county tax is nowhere separated and stated and the board informed of the amount thereof. They are all in substantially the form following (R. 16):

“Description, E 1-2; SW 1-4; W. 1-2; SE 1-4; 1909 tax, \$31.68, paid 5-24-10; 1910 tax, \$29.44, paid 5-14-11; 1911 tax -38.67, paid 1-1-12. Total, -99.79.”

Therefore, the claims not being itemized as contemplated by the statutes above quoted, the board had no jurisdiction under the law to allow them, its jurisdiction, because of such defect in their form, being taken away by the very first words of section 1631, *supra*, “No account shall be allowed by the county commissioners, unless,” the account or

claim be itemized and otherwise in form and made out as required by the above quoted statutes.

In *Allen v. Commissioners of Pittsburg County*, 28 Okla. 773, in passing upon the authority of a board of county commissioners and with reference to the manner in which claims should be made out for presentation to them for allowance under the state statute, at page 775, the following from the case of *Osterhoudt v. Rigney*, 98 N. Y. 232, is quoted with approval:

“But boards of audit in allowing accounts are limited to the powers conferred upon them by the statute; and when they transgress these limitations, their acts, like those of any other tribunal of limited jurisdiction, are void. If, for example, a board of town or county auditors should allow a claim which was plainly neither a town nor a county charge, its determination would be void, for the reason that such charges only are within its jurisdiction. \* \* \* The same rule would follow if the account presented and allowed was one which the board, by reason of the omission of some indispensable condition, had no right to consider. For example, the statute declares that ‘no account shall be audited by town auditors for any services and disbursements *unless made out in items* and verified by the claimant.’ ‘The object of these provisions is the protection of the taxpayers against false and fraudulent claims, and are clearly mandatory upon the board.’ ”

In *Smith v. Board of County Commissioners*, 56 Okla. 672, at 677, the section is quoted, and it is there said:

“No attempt was made in filing these claims of the county commissioners to comply with Section 1631, Rev. Laws 1910. \* \* \* The first count of the amended petition



was for money expended, but neither the amended petition nor the exhibit attached thereto set out the items of expenditure or the purpose thereof. \* \* \*

In that case the action of the trial court in sustaining a demurrer to the petition was affirmed.

*In re Piney*, 40 N. Y. Supl 716, at p. 717:

“Every item and detail must be so specifically stated that any one reading the account may be exactly informed of what it consists.”

*Clyne v. Bingham County*, 7 Idaho, 75:

The requirement that the claim be itemized so that it can be ascertained therefrom what charges are proper charges against the county is mandatory.

*Miller v. Crawford County*, 106 Wis. 210.

*Board of County Commissioners v. Tomilson*, 9 Kan. 167.

Therefore, the board of county commissioners, respondent, did not err in rejecting the claims of petitioner, and his failure to collect from the county such taxes paid it, as were chargeable to it, was not because of his being deprived of a remedy, but because of his failure and negligence in not following the remedy afforded and which he was attempting to pursue. And hence the Supreme Court of Oklahoma did not err in upholding the action of respondent board in disallowing petitioner's claims.

5. The Supreme Court of Oklahoma did not err in upholding the board of county commissioners in rejecting his claims for the reason they were not filed in time.

That these claims were not filed within the time required by law is not assigned as a reason by the supreme court of Oklahoma for affirming the action of the respondent board in rejecting them.

However, if the judgment of the Supreme Court of Oklahoma be correct, it should not be reversed because of any reason announced as the ground of the decision, or because any valid ground for upholding the action of the board may not have been mentioned in its opinion; the question here being was the court right in affirming the act of the respondent board?

*McClung v. Silliman*, 6 Wheat. 596, at page 603;

“And, notwithstanding express evidence to the contrary, this court feels itself sanctioned, in referring to the decision of the state court, in this case, to the ground on which it ought to have been made, instead of that on which it appears to have been made. The question before an appellate court is, was the the judgment correct, not the ground on which the judgment professed to proceed.”

*Pennsylvania Railroad Co. v. Wabash, St. L. & P. R. Co.*, 157 U. S. 225, at page 228.

*St. L. & S. F. R. Co. v. Brown*, 241 U. S. 223, holding:

“The fact that the state appellate court may have in-

accurately expressed in one respect its reasons for affirmance does not require this court to reverse, if, in fact, no reversible error exists."

The opinion of the Supreme court of the United States in the case of *Choate v. Trapp*, 224 U. S. 665 was handed down May 12, 1912, after which date but very few of the allottees made payment of taxes on non-taxable lands whose claims are involved in this cause, these claims were filed with the board of respondent county on October 25, 1915 (R. 202) or more than two years after the last payment had been made on the great majority of said claims, and over three years after this court had held the lands non-taxable. As to those claims on which the last payment of taxes was made prior to such decision on May 12, 1912, we will presume that it will be admitted that the right to repayment of that part thereof which were county taxes accrued at the latest on the date the lands were held non-taxable, if not on the date of the last payment of tax on said account or claim. As to all claims not filed within two years after they accrued the board had no jurisdiction to allow the same against the county, and as to the great majority of such claims, they did not err in disallowing them, and as to such claims not filed within the two years allowed by statute the Supreme Court of Oklahoma did not err in upholding the act of the board.

Revised Laws of Oklahoma 1910 provide as follows:

"Section 1570. ACCOUNTS MUST BE FILED WITHIN

**TWO YEARS—EXCEPTION.** No account against the county shall be allowed unless presented within two years after the same accrued: Provided, that should any person having a claim against the county be (at the time the same accrued) under any legal disability, such person shall be entitled to present the same within one year after such disability shall be removed."

*Stillwater, etc., v. Board of County Commissioners*, 29 Okla. 859, at 862.

Under a like statute it was held in the case of *Herdman v. Board of County Comrs.*, 6 Kan. App. 513, 50 Pac. 946, that:

"A claim against a county for compensation for land appropriated for public highways must be presented within two years after the claim accrues."

In that case the plaintiff appealed from a disallowance of his claim by the board to the district court, where a demurrer was sustained to his petition, and the case was affirmed on appeal.

Similar statute limiting the time within which claims must be presented against a county for allowance are construed and upheld in the following cases:

*Elbert County v. Swift*, 2 Ga. App. 47, 58 S. E. 396.

*Carroll v. Siebenthaler*, 37 Cal. 193.

*Welch v. Santa Cruz County*, 30 Cal. App. 123, 156 Pac. 1003.

*Royster v. Commissioners*, 98 N. C. 148, 3 S. E. 739.

*Perrin v. Honeycutt*, 144 Cal. 87, 77 Pac. 776, where the statute was applied in an action involving the recovery of a payment of delinquent taxes. The demurrer to petition was sustained, and case affirmed on appeal.

The board has no jurisdiction to allow a claim not presented within the period allowed for presentation by the statute:

*Cochise County v. Wilcox*, 14 Ariz. 234.

And the statute applies to claims for refund of taxes paid:

*Perrin v. Honeycutt*, 144 Cal. 87.

Here again the petitioner was not deprived of a remedy, by reason of which he should be entitled to equitable relief, but his failure to obtain relief is traceable to his own negligence in not presenting his claims for allowance by the board within the time required by law, for which neglect equity can give no relief. Hence the action of the board and of the Supreme Court of Oklahoma should be affirmed.

**6. Arguments and Authorities cited by petitioner considered.**

It is contended by petitioner at pages 16-17 of his brief that as suits were pending to enjoin the collection of the tax they were sufficient notice to the county of the taxpayers claim to the money, and it was error for the Supreme Court of Oklahoma to hold a refund cannot be had because the

county has distributed the tax money to the various municipal subdivisions of the county.

We have pointed out that under the law and the opinion referred to, the tax was not distributed by the county to the various subdivisions of the county, but were levied by the state, county, townships and school districts, and were collected by the county treasurer, as the collecting agent, for each such authority levying taxes, were all paid to him at the same time on any given tract of land, and were distributed by him under the requirements of the law, to the body politic levying such tax. Under these laws the board of county commissioners had no power, unless the allottees claimed their lands were exempt by a proceeding before the board herein-after mentioned, to prevent the collection of these taxes and that the duty of the treasurer of the county was to collect the taxes found upon the tax rolls given by the county clerk, and it matters not how much notice he or the board had the law required these taxes to be collected when found on the tax rolls and to be paid out to the municipalities for which they were collected respectively.

Had the Indian claimants of these taxes set out in the claims sought to be charged against the respondent county in this case not wished to pay the taxes assessed against their non-taxable lands, they had a plain, speedy and adequate remedy afforded by the statutes of Oklahoma for avoiding

the payment of the taxes in question, without resort to a court of equity for relief.

These statutes took effect March 10, 1909, before any of the taxes which it is sought to recover became delinquent.

Under Sec. 6013 of Wilson's Rev. and Ann. St. Okla. 1903, "on the third Monday of January following the assessment, all unpaid taxes shall become delinquent."

Before the taxes of 1908 became delinquent it was enacted by the Oklahoma Legislature Ses. Laws 1909, Ch. 38, Art. 4, Sec. 1, which took effect January 14, 1909, as follows:

"The time for the payment of the first half of the taxes levied for the fiscal year ending June thirtieth, nineteen hundred and nine, and for the deficiency for the fiscal year ending June first, nineteen hundred and eight, is hereby extended until the third Monday of April, nineteen hundred and nine, and such taxes shall become delinquent after said third Monday in April, nineteen hundred and nine." (Session Laws 1909, p. 627.)

Before the third Monday in April, however, these sections were in force, by which allottees might have been relieved of paying all taxes assessed for the years in which they were not subject to taxation, and to have the correction made either upon the assessment or the tax rolls of the county.

The Rev. Laws of Oklahoma 1910 provide for the cor-

rection of the assessment rolls and tax rolls of the county as follows:

“Section 7353. COUNTY COMMISSIONERS MAY CORRECT ROLLS. The board of county commissioners of the various counties of the State of Oklahoma are hereby empowered to correct, either upon the assessment or upon the tax rolls of the county, any double or erroneous assessment of property for taxation for any particular year, in the manner provided in the next section, and not otherwise.”

(Comp. Laws Okla. 1909, Sec. 7601; Ses. Laws Okla. 1909, p. 595, Ch. 38, Art. 5, Sec. 3. Took effect March 10, 1909, p. 624.)

“Sec. 7354. PROCEDURE TO CORRECT ROLLS. Whenever at any of the regular meetings of said boards (in January, April, July or October), upon complaint of the person beneficially interested, his agent or attorney, it shall be made to appear by the testimony of the claimant and at least one reputable witness, borne out by the records of the county, that the same property, whether real or personal, has been assessed more than once for the taxes for the same year, or that property, whether real or personal, *has been assessed in the county for the taxes of a year to which the same was not subject*, the board is hereby empowered to *issue to the claimant a certificate of error* showing that the complaint has been investigated by the said board and that the said board has been satisfied of the truth of the allegations of the said complaint, and direct the same to the county treasurer of their county, directing him to accept the said certificate as a payment of cash to the amount found by the said board to have been unjustly assessed, which said amount shall be named in the said certificate, and shall by the treasurer be credited upon his tax roll against the tax so found to be erroneous; and the treasurer shall retain



the said certificate and shall be credited with the same, as cash, in his settlement as such treasurer."

(Substantially the same as Sec. 7602 Comp. Laws 1909; Ses. Laws Okla. 1909, p. 595, Ch. 38, Art. 5, Sec. 4. Took effect March 10, 1909.)

Had any allottee made the complaint to the board of county commissioners contemplated in the last section, *supra*, and had they refused the certificate to be accepted as cash for the taxes, such allottee might have appealed under the sections following from the action of the board to the district court:

Revised Laws of Oklahoma 1910, as to appeals from the board of county commissioners, provide:

"Section 1640. APPEAL FROM ACTION OF BOARD. From all decisions of the board of commissioners upon matters properly before them, there shall be allowed an appeal to the district court by any person aggrieved, including the county by its county attorney, upon filing a bond with sufficient penalty, and one or more sureties to be approved by the county clerk, conditioned that the appellant will prosecute his or her appeal without delay, and pay all costs that he or she may be adjudged to pay in the said district court; said bond shall be executed to the county, and may be sued in the name of the county upon breach of any condition therein: \* \* \*."

(Comp. Laws Okla., Sec. 1690; Stat. Okla. 1890, Sec. 1833; Stat. Okla. 1893, Sec. 1803.)

"Section 1641. SAME—TIME AND MANNER OF TAKING. Said appeal shall be taken within twenty days after the decision of said board, by serving a written notice on one of the board of county commissioners, and the clerk

shall, upon the filing of the bond as hereinbefore provided, make out a complete transcript of the proceedings of said board relating to the matter of their decision thereon, and shall deliver the same to the clerk of the district court."

(Comp. Laws Okla. 1909, Sec. 1691; Stat. Okla. 1890, Sec. 1834; Stat. Okla. 1893, Sec. 1804.)

"Section 1642. SAME—WHEN FILED. Said appeal shall be filed by the first day of the district court next after such appeal and said cause shall stand for trial at such term."

(Comp. Laws Okla., Sec. 1692; Stat. Okla. 1890, Sec. 183; Stat. Okla. 1893, Sec. 1805.)

"Section 1643. SAME—TRIAL. All appeals thus taken to the district court shall be docketed as other causes pending therein, and the same shall be heard and determined *de novo*."

(Comp. Laws Okla. 1909, Sec. 1693; Stat. Okla. 1890, Sec. 1836; Stat. Okla. 1893, Sec. 1806.)

The foregoing sections are held a remedy affording relief for the avoidance of the payment of taxes upon non-taxable land, which precludes resort to equitable relief, in the case of,

*Fast v. Rogers, County Treasurer*, 30 Okla. 289.

See, also:

*Thacker v. Witt*, 166 Pac. 713 at 714.

*Higgins, Neville & Boddy v. Wood*, 43 Okla. 554.

*Carroll v. Gerlach*, 11 Okla. 151.

*Wilson v. Wiggins*, 7 Okla. 517.

*Stonebraker v. Hunter*, 215 Fed. 67 (C. C. A.)

And the duty to resort to such remedy with reference to these claims cannot be escaped by assuming, if resorted to, the wrong complained of would not have been rectified.

In *Mellon Company v. McCafferty, County Treasurer*, 239 U. S. 134, dismissing an appeal from the Supreme Court of Oklahoma (38 Okla. 534), it is held in the opinion by Mr. Chief Justice White:

“2. Failure to resort to ample and efficient administrative remedies existing under the state law to review assessments claimed to have been unlawfully made, is a non-Federal ground sufficient to sustain a judgment of the state court refusing to enjoin the collection of the tax.

“3. The duty to resort to an adequate remedy provided by statute cannot be escaped by assuming that even if resorted to the wrong complained of would not have been rectified.”

It is therefore plain that petitioner's assignors did not escape the payment of the taxes in question, because they had no remedy, and for that reason they are entitled to equitable relief for the last cited sections gave them an adequate remedy, and they do not pretend to allege that they ever attempted to take advantage of such remedy.

The remedy which they finally sought after payment to recover back their taxes also failed in attaining the desired result, not because they had no remedy, but because they failed to properly follow the remedy afforded by properly

itemizing their claims and filing them within the time required by the procedure adopted by them, as we have heretofore shown.

After the allottees had once paid these taxes their remedy was to file an itemized account showing what taxes the county had received with the board of county commissioners for allowance. As to township taxes they should have filed claims for such taxes with the respective clerks of the townships receiving such taxes for allowance by the respective township boards under Rev. Laws Okla. 1910, Sec. 8180, and Ch. 136 Laws of 1913. Or they might sue the school districts for the money received by each respective school district, and as to state taxes a recovery thereof must depend upon some legislative action affording a means of repayment.

And the county, townships and school districts might each be sued to recover any taxes for the repayment of which they might respectively be liable. We will now consider cases cited at pages 17-20 of petitioner's brief.

With reference to the case of *Du Bois v. Board of County Commissioners*, 10 Ind. App. 347, 37 N. E. 1057, the action to recover the taxes was commenced, as shown by the opinion, while all the tax paid was in the county treasury, and before any of it had been distributed.

We have heretofore shown in the discussion of the manner of levy and collection of taxes 1, *supra*, that none of

these taxes could have been retained by the county treasurer under the law longer than three months after they were paid, except the county taxes, and in all instances the taxes had been expended to defray expenses of fiscal years for which they were levied, long before these claims were filed with the respondent on October 25, 1915 (R. 202). Hence that case has no application to the conditions in this case.

In *Greenbaum v. King*, 4 Kans. 332, the right to recovery is limited to the time the money "remains in the county treasury."

There the action was against the county treasurer, who had the control and charge of the money and who paid it out after injunction proceedings had been instituted against him, and he was held liable. Here the action is against the board of county commissioners, who under the statutes had neither charge or control over any funds except county taxes and who could not prevent the paying out and expenditure of funds other than county funds, and here the county treasurer is not a party.

In the case of *Chapman v. Douglas County Commissioners*, 107 U. S. 348, the county alone had received the benefits and alone was liable. Here the county received but a small part of the taxes paid and such part was not shown in the accounts filed with the board so that they might know how much it was and allow the same, the accounts not being itemized.

In *Marsh v. Fulton County*, 77 U. S. 676, the question was as to the liability of the county on county bonds. And its liability for obligations of other municipalities as here urged was not involved.

In *Louisiana v. Wood*, 102 U. S. 294, the question was as to recovery of money paid for defective bonds of a city, and no recovery was sought for money paid any other municipality as against the city.

In *Milttenberger v. Cook*, 18 Wallace 421, the question was with reference to internal revenue, and hence no claim of any other body politic than the United States was involved.

And the same may be said with the remainder of the cases cited on page 20 of petitioner's brief, that they do not any of them present the questions involved in this case, failure to follow a remedy afforded, neglect to avail of a remedy afforded, or an attempt to collect from one municipality taxes levied by and paid to other municipalities.

From all the foregoing we maintain that the holding in the first paragraph of the syllabus to the opinion of the Supreme Court of Oklahoma (R. 211) rests upon an independent non-Federal ground broad enough to sustain the judgment, irrespective of whether the court erred in any other or all other of its holdings, and that under the authorities

heretofore cited there was no error in said first paragraph of the syllabus and its judgment should be either affirmed or the appeal dismissed:

*Mellon Company v. McCafferty*, 239 U. S. 134.

## POINT II.

### Second Specification of Error.

At page 21 of his brief petitioner sets out this specification of error.

“The court erred in holding that the money paid respondent county as taxes upon allotted lands which were non-taxable under treaty with the United States and Act of Congress, June 28, 1898 (30 Stat. at L. 495), was paid voluntarily, and that in the absence of a state statute so authorizing cannot be recovered back.”

We have discussed the proposition in considering the first assignment, that under the procedure adopted to collect these taxes the petitioner failed to itemize his claims so as to show to the board of county commissioners the amount of tax received by the county, so that they could under the law allow the same, if a proper county charge, and that the county could not be held liable for taxes levied and collected by the state, townships and school districts, over the levy and collection and disbursement of which the county or county commissioners had no control whatever, such taxes never coming into their possession or control, and that as to the recovery of such taxes, other than county taxes, the allottees relief was against the body politic receiving such taxes and not against the county which had not received them. And that if we are correct in our contention on the proposition considered in answering the first specification, they are sufficient to dispose of the case, irrespective of



whether the taxes were or were not paid under duress. It is to be still remembered that this is a special proceeding under a state statute originating in the presentation to and disallowance of these claims by respondent board, and is not a suit in equity nor an action at law for recovery of these taxes.

Therefore, to be strictly correct, at page 22 of his brief, respondent should have said: This present proceeding was brought under the state statute for presentation of claims to a board of county commissioners for allowance, if a proper county charge, or for disallowance if not a proper county charge, or, if not in the form or filed within the time allowed by such state statute governing such state procedure, adopted by petitioner to collect his claims. We object to the statement that "This present action was brought to recover the money paid. \* \* \* ." It was a special statutory proceeding as heretofore shown, and not an action in assumpsit, or a suit in equity, to recover the taxes paid.

We agree with his next statement, "The decision of the Supreme Court of Oklahoma proceeds upon the theory that the right of recovery is a state question. \* \* \*"

The proceeding selected to recover being under a state statute and the petitioner having failed to recover because

he failed to follow the statute, and because he did not file his claims in the time allowed by the statute, the question could under such a procedure be none other than a state question, and even where a tribe of Indians invoke a state procedure in seeking redress for their grievances, they are bound by the requirements of such procedure, the same as any other private individual invoking it, and can only bring it in the same manner and within the same time as other persons.

*Seneca Nation of Indians v. Christy*, 162 U. S. 283, where in the opinion it is said referring to the Act of the state legislature under which the Seneca Nation had brought the action:

“The Seneca Nation availed itself of the act in bringing this action, which was subject to the provision, as held by the Court of Appeals, that it could only be brought and maintained ‘in the same manner and within the same time as if brought by citizens of this state in relation to their private individual property and rights.’ Under the circumstances, the fact that the plaintiff was an Indian tribe cannot make federal questions of the correct construction of the Act and the bar of the statute of limitations.

“It appears that the decision of the Court of Appeals was rested, in addition to other grounds, upon a distinct and independent ground, not involving any federal question, and sufficient in itself to maintain the judgment, the writ of error falls within the well settled rules on the subject, and cannot be maintained. *Eustis v. Bolles*, 150 U. S. 361; *Gillis v. Stinchfield*, 159 U. S. 658. Writ of error denied.”

On the same page petitioner says: "The question is, whether their rights have been impaired, and if so, whether there is a remedy?"

We have already shown they were afforded two remedies under the state law, the one by making proper application to the board of county commissioners before they paid the tax for the proper certificate relieving the allottees from paying the tax found either on the assessment or tax roll, which it does not appear they invoked. The other was by application to the different municipalities after they had paid the tax for allowance of a claim for such taxes received by the respective municipality with whom such itemized claim was filed, which remedy they failed to follow in that they demanded all taxes of one municipality, the county, which properly refused to allow the claim in that it included in a lump sum taxes received by the state and other municipalities, other than the county. If they were entitled to maintain a suit in equity seeking equitable relief, their remedy was in a court of equity, not in a proceeding before a board of county commissioners having no equitable jurisdiction, and appealing to the district court of the county which took on appeal only the jurisdiction of the board and none other. Any municipality that received the taxes, except the state, could be sued in a court of competent jurisdiction.

In the case of *United States v. Chehalis County*, 217 Fed. 285, cited at pages 22-23 of petitioner's brief, it is to be noted that in that case suit was originally brought in a court of original equity jurisdiction, and not under a special state procedure before a board of county commissioners having no equity jurisdiction, that in that case the county and county treasurer were defendants; that in this proceeding the county treasurer who collected and paid out the taxes is not a party; that in that case certain taxes paid were sought to be collected, and it does not appear that any other taxes than those paid the county were sought to be collected, but if they were, the question of the liability of the county for other than county taxes does not appear to have been presented or considered.

In that case the United States commenced the action on behalf of the Indians, while in this proceeding (Transcript of Record 3) it appears to have been instituted by C. A. Greenless, Trustee, who does not appear to be an Indian, and as to interest it is not instituted on behalf of the Indians, but on behalf of said Greenless, each claim being assigned to him (R. 14, 16-200), with authorization "to sue and collect said demand in his own name," and when collected 50 per cent to be paid by him to the allottee, his assignor. So that if the county commissioners had allowed the claims to Greenless and paid the same to him, and had the

Indian assignor been incompetent, or had his guardian made the assignment without approval of the proper probate court, no such approval being shown in the petition, the county commissioners knew, if they allowed the claims to Greenless, the Indian would never get over one-half of the amount of tax paid by him, and had no assurance that he would receive that. So that when the claim was again presented on behalf of the Indian by a proper authority the county might be compelled to pay it to him, and if the United States should prosecute a suit on behalf of the Indians it might recover all the taxes again from the county which it had paid Greenless. This, therefore, is another valid reason why the board should be upheld in its action in refusing to pay these taxes to Greenless. Therefore, it may well be that the rule that taxes voluntarily paid cannot be recovered back, is made for the benefit of the state, has no application to a suit by the United States in a Federal court, under the circumstances in that case, but Greenless is not the United States, neither are the Indian allottees, and as to them the state rules apply while they pursue state remedies before state boards and courts.

*Seneca Nation of Indians v. Christy*, 162 U. S. 283, *supra*.

The burden is on the assignee to show the competency of his assignor:

*Schinotti v. Cuddy*, 55 N. Y. Supl. 219.

Petitioner says at page 30 of his brief:

“In this case the recipient of the coercive measures and acts are Indian citizens. \* \* \*the fact that the Indians belong to a class of people who are not well informed of their rights and therefore the necessity of liberal construction in determining all questions touching their persons and property. The Indian citizen is not on an equal footing with the county and its officers, and such inequality must be made good by superior justice.”

Well, if this be true as between the Indian and the respondent county, why is it not also true as between the Indian and the petitioner, Greenless, to whom all these claims are assigned and who sought in this proceeding to have allowed and paid to himself by the county all of these claims.

If the Indian was incompetent to make a voluntary payment of the tax in the first instance, what made him competent to assign his claim for all taxes paid to Greenless, and to voluntarily give Greenless one-half of what he collected, and run the risk of Greenless giving the other half, after Greenless had received it, to the Indian.

*William Cameron & Co. v. Farby*, 175 Pac. 206 (Okla.), holding:

“1. A guardian cannot make a contract which will bind the person or estate of his ward, unless authorized by a court of competent jurisdiction to enter into said agreement.”

So far as appears from the transcript of the record, pages

5-202, no Indian allottee has yet filed his claim for taxes paid on his non-taxable land with the county clerk to be allowed by the respondent board and paid by the county, to the Indian allottee; neither has any guardian of any incompetent Indian filed a claim for such allowance of taxes paid on his ward's allotment, to be repaid to the guardian; but on the contrary all such taxes are assigned to and the claims filed show on their face they are to be paid to Greenless.

These things appearing on the face of the claims filed and the petition, its sufficiency was presented by demurrer, (Transcript of Record, 204-5), and there was no error in either the board rejecting the claims, or in the judgment of the Supreme Court to the effect that the demurrer should have been sustained by the District Court.

Therefore, there is no error in the holding in the second paragraph of the opinion by the Supreme Court of Oklahoma (R. 211).

It is evident from the petition that the Indians who paid the taxes knew they were Indians, knew that they had been allotted the lands upon which the taxes were assessed, and knew all the facts, and what they did not know was the law, and whether as purely a question of law the provisions of the Act of June 28, 1898 (30 St. 495), rendering their allotments non-taxable, had been taken away by the later Act of

Congress of May 27, 1908, sections 1 and 4, of which apparently made the allotments taxable (35 St. 312).

It is the rule of law in Oklahoma that taxes paid under mistake of law cannot be recovered back.

*Johnson v. Grady County*, 50 Okl. 188, 150 Pac. 497, holding:

"4. Where a person voluntarily pays taxes to the county or state, however erroneous the assessment may be, the taxes so paid cannot be recovered unless such taxes were paid under a mistake of fact, and not of law; \* \* \*."

*Louisiana Realty Co. v. City of McAlester*, 25 Okl. 726.

It is a rule of law in Oklahoma that payment of a tax on real property made not under mistake of fact is voluntary, and, under the revenue laws of Oklahoma, it is not made under coercion or duress.

*Johnson v. Grady County*, 50 Okla. 188, holding:

"14. A party cannot successfully plead coercion or duress in the payment of a tax on real property."

A tax sale of land for delinquent taxes, where the land is non-taxable, and a tax deed issued on such sale is void in Oklahoma and conveys no title.

*Hutchinson v. Brown*, 167 Pac. 624.

*Davenport v. Doyle*, 57 Okla. 341.

And the holder of such a void tax deed could not



make the same the basis of an action to quiet title to the land.

*Spalding v. Hill*, 47 Okla. 621.

And where plaintiff brings action to quiet title to land, and his title thereto is founded on a void deed, and obtains judgment by default, in Oklahoma such a judgment would be void.

*Clark v. Holmes*, 31 Okla. 164.

*Lewis v. Clements*, 21 Okla. 167.

It is therefore plain that if the Indians had known the law and that the Act of May 27, 1908, did not make their lands taxable they would not have paid the tax, and by reason of non-payment they could have suffered no injury either in their person or property, for those who did not pay their taxes on their allotments were not compelled to pay them, and no valid claim could be made or enforced against their lands or title by reason of such non-payment.

That the Supreme Court of Oklahoma was right in its holding in the second paragraph of the opinion (R. 211) is also shown by the following cases, as well as in the cases cited in the opinion itself, (Transcript of the Record, 214-218):

*Phillips v. Board of Comrs. Jefferson County*, 5 Kans. 412:

In that case money was paid to the county treasurer to

redeem tax sale certificate of land sold for taxes, which were Indian lands, and not liable to assessment and taxation, and at the same time said money was so paid, the owner of the land denied the legality of the tax, on the ground that the lands were not taxable, and paid the money to prevent tax deeds, which were then due, from being made for said lands, and it was held that such payment was voluntary, and could not be recovered back.

It is to be noted that the allegation that at the time said tax was paid, the owner denied the legality of the tax, does not make the payment an involuntary one, as is shown by the last case cited. That case has been cited and followed by the Supreme Court of the United States in the case of *Lamborn v. Board of County Commissioners*, 97 U. S. 181, in which case certain lands had been taxed before a patent had been issued therefor, the Supreme Court of Kansas had held the taxes legal, and the lands were bid in by the county for taxes. The taxes were paid by plaintiff in ignorance of the fact that the lands were not taxable, and afterward the Supreme Court of the United States reversed the Supreme Court of Kansas and held the lands not taxable, and thereafter suit was brought to recover the taxes paid.

It is to be noted that the circumstances in that case are almost identical with those alleged in the petition in case at bar (Transcript of Record, pages 5-13), except that in that

case there was no protest made upon payment of taxes, and in this case there had been no tax sale. In both cases the lands were non-taxable, in both cases the state court had held the lands taxable, and in both cases the action was instituted to recover the tax paid, after the United States Supreme Court had reversed the state court, and had held the land non-taxable.

In the opinion by Mr. Justice Bradley it is said with reference as to whether the tax could be recovered back :

“There are only three grounds on which such recovery can be maintained: Fraud, mistake or duress. No fraud is charged.”

So in case at bar it is to be noted that petitioner charges no fraud in his petition.

The court next considers the question of mistake.

“Mistake, in order to be a ground of recovery must be a mistake of fact, and not of law. Such at least is the general rule. 3 Pars. Cont. 398; *Hunt v. Rousmaniere*, 1 Pet. 1; *Billie v. Lumley*, 2 East 469 (cited); 2 Smith L. Cas. 398, 6th Ed. 458, notes to *Marriot v. Hompton*. A voluntary payment made with full knowledge of all the facts and circumstances of the case, though made under a mistaken view of the law, cannot be revoked and the money so paid cannot be recovered back (citing cases.) \* \* \*

“In the present case, there is no dispute, that all the facts and circumstances of the case, bearing on the question of the validity of the tax, were fully known to the plaintiff. He professedly relied on the law, as declared

by the Supreme Court of Kansas, and supposed that the tax was legal and valid.”

Mr. Justice Bradley next proceeds to a consideration of the subject in the opinion as follows:

“But it has been questioned whether a sale or threatened sale of land for an illegal tax is within this rule, there being no seizure of the property, and nothing supervening upon the sale except a cloud on the title. In *Phillips v. Jefferson Co.*, 5 Kans. 412, certain Indian lands, not legally taxable, were nevertheless assessed and sold for taxes, and a certificate issued to the purchaser. Phillips having acquired title to the land, paid the amount of said tax, at the same time denying their legality, and saying that he paid the money to prevent tax deeds from issuing on the certificates. The court held that the payment was purely voluntary, and add: ‘The money was not paid on compulsion or extorted as a condition. A tax deed had been due for nearly two years. Had the plaintiff desired to litigate the question he could have done so without paying the money; even had a deed been made out on the tax certificate, it would have been set aside by appropriate proceedings. There was no legal ground for apprehending any danger on the part of the plaintiff. He could have litigated the case as well before as after payment. Neither his person or property was menaced by legal process. Regarding, then, the payment as purely voluntary, it is as certain as any principle of law can be that it could not be recovered back.’

“It seems to us that this case is precisely parallel with the one before us. We are unable to perceive any distinction between them. And as it is the law of Kansas, which we are called upon to administer, the settled decisions of its Supreme Court, upon the very matter, are entitled to the highest respect.”

The Court in that case, as indicated, regarded the question as to whether the payment was under duress or voluntary, one of general law, and as the case had its origin in Kansas, such question was to be determined by the Kansas decisions. So in case at bar, the question being one of general law, and the case having its origin in Oklahoma, the decisions of Oklahoma are to be considered with equal authority upon the question, in this case, as the Kansas decisions were in that case, and as they follow the Kansas cases, it should be determined that the payment in this case was voluntary. In that case the court at the end of the opinion made the following conclusion:

“In conclusion, our judgment is, that the question submitted by the Circuit Court must be answered as follows:

“To the first: That judgment should be rendered for the defendant.

“To the second: That the acquisition of the tax certificates and the subsequent payment of the taxes by the plaintiff were a voluntary payment, in such a sense as to defeat the right to recover in this action.

“To the third: That the statute of Kansas referred to in the opinion, does not, upon the facts found, give the plaintiff the right to recover in respect of the causes of action set out in the opinion.”

Which conclusions are equally applicable here, and show that the question is one of general law and that the decis-

ions of Oklahoma thereupon and upon the Oklahoma statute should prevail, with the result found in that case.

And the fact that the Indians who paid the taxes protested at the time of payment could not make the payment, under the conditions recited in the petition, an involuntary one further appears from the case of,

*Union Pac. R. Co. v. County Commissioners of Dodge County*, 98 U. S. 541, in which case it appears that certain lands in Nebraska had been taxed under the general taxation and revenue laws of that state, which are very similar to those of Oklahoma, which lands were not subject to taxation, as patent had not issued therefor, the company paid the taxes, protesting at the time in writing, and brought suit to recover the taxes back.

In holding that the taxes were voluntarily paid and could not be recovered back, Mr. Justice Waite says in the opinion:

“We had occasion to consider the same general subject at the last term in the case of *Lamborn v. Comrs.*, \* \* \* which came up on a certificate of division from Kansas. As that was a case from Kansas, we followed the rule adopted by the courts of that state, which is thus stated in *Wabaunsee Co. v. Walker*, 8 Kans. 431:

“Where a party pays an illegal demand with a full knowledge of all the facts which render such demand illegal, without an immediate and urgent necessity therefor, or unless to release his person or property, such payment must be deemed voluntary and cannot be re-

covered back. And the fact that the party at the time of making the payment files a written protest does not make the payment involuntary.' "

At the close of the opinion it is further stated:

"Under such circumstances, we cannot hold that the payment was compulsory in such a sense as to give a right to the present action. As the answer to this question disposes of the case, it is unnecessary to consider the other questions certified. \* \* \*"

Therefore, we contend that the determination of this question of general law by the Supreme Court of Oklahoma, namely, voluntary payment, is broad enough to sustain its judgment, and the consideration of any other questions is unnecessary in this case.

In *Chesborough v. United States*, 192 U. S. 253, at 259, it is said:

"The rule is firmly established that taxes voluntarily paid cannot be recovered back, and payments with knowledge and without compulsion are voluntary."

*United States v. New York & Cuba Mail Steamship Company*, 200 U. S. 488.

*United States v. Edmonson*, 181 U. S. 500, to the effect that the payment of an excessive amount for government lands to government officers being voluntary and under a mutual mistake of law is not recoverable.

In *Little v. Bowers*, 134 U. S. 547, the court quotes and follows *Waubunsee County v. Walker*, 8 Kans. 431, deciding the question of general law that the taxes were volun-

tarily paid and could not be recovered back, and sustained the motion to dismiss the writ of error.

*Willis v. Austin, Tax Collector*, 53 Cal. 152, holding:

“A tax deed which is void upon its face does not throw a cloud upon the title, and a threat of the tax collector to sell property and execute such a deed, does not amount to duress.

“The payment of taxes when there is no legal duress, will be deemed to have been voluntary, and the money cannot be recovered back.”

The Sonoma County Tax Case, *San Francisco & N. R. Co v. Dinwiddie et al.*, 13 Fed. 789, holding:

“1. An assessment made in strict accordance with the provisions of the state constitution relating to the assessment of railroad property which violates the provisions of the fourteenth amendment to the constitution of the United States is void.

“2. A payment under it is not a payment under duress, but is voluntary and cannot be recovered.”

The action was to recover something over \$18,000, paid to plaintiff by defendant Dinwiddie, as tax collector of Sonoma County, under protest; for taxes assessed for the fiscal year 1881-1882. The complaint alleged that “Dinwiddie advertised the said property assessed, being the franchise, road-way, road-bed, rails and rolling stock, for sale for said taxes so assessed, and threatened to sell said property, when, to prevent a sale and save its property, and to prevent a



cloud being cast upon its title, the plaintiff paid the amount of the tax under protest."

On the point of voluntary payment we quote from the opinion the following:

"As the assessment was utterly void, it would have afforded no justification for a forced collection of the tax. Being void, as plaintiff alleges that it is, it is insisted by the defendants that the payment was voluntary, and, being so, the money paid cannot be recovered from defendants. This is clearly a voluntary payment within the rule laid down by the supreme court of California in *Bucknall v. Story*, 46 Cal. 599. It cannot be distinguished from that case. There was no possession of the property in the tax collector to be released in this case. He had never seized and he did not detain, and he did not even threaten to seize or detain any property. He was simply proceeding to sell property out of his possession upon an assessment of a tax that was wholly void upon its face. Neither the sale nor a conveyance under it could create any cloud on the title. The facts were fully known to the plaintiff, and the plaintiff at least maintained that the assessment and proceedings were absolutely void; and on this proposition plaintiff turns out to be right. The assessment was claimed to be void, and it was on that very ground that the plaintiff objected to the sale, and paid the money under protest. The means of knowledge of plaintiff were equal to those of the tax collector. \* \* \* The plaintiff was bound to know the law. If the plaintiff paid, when there was no actual seizure or restraint of its goods, merely from a fear that it might be mistaken as to the law, it acted upon its own judgment as to what was the best course to pursue. It was merely a question of policy and not coercion. If there was a mistake on its part, it was a mistake of law, which it was bound to know, and not a mistake of fact. It was, in fact, right in its view of the

law. At all events the payment was clearly voluntary under the laws of California as settled in *Bucknell v. Story, supra*, and we know of no subsequent decision of the Supreme Court of the state to the contrary. This being the law of the state we are required to follow it. \* \* \* So, also, there was no duress, as that term is defined in the Civil Code, sec. 1569. There was, certainly no duress of the person, and there was no 'detention of property' at all, it never having been seized, and, consequently, no 'unlawful detention of the property of the plaintiff.' "

The demurrer to the complaint was sustained.

Compare Civil Code sec. 1569 of California, cited in the opinion, *supra*, with sec. 900 of Rev. Laws of Okla. 1910, providing:

"Duress consists in:

"First. Unlawful confinement of the person of the party, or of husband or wife of such party, or of an ancestor, descendant, or adopted child of such party, husband or wife.

"Second. Unlawful detention of the property of such person; or,

"Third. Confinement of such person, lawful in form, but fraudulently obtained, or fraudulently made unjustly, harrassing, or oppressive."

*Brunson v. Board of Directors of Crawford County*, 107 Ark. 24, holding:

"1. The payment by one of illegal taxes with knowledge of the facts, and without any immediate and urgent necessity therefor, and not made to release his person or property from detention, nor to prevent an immediate

seizure of his person or property, is voluntary, and he cannot recover back the money paid."

Citing:

*Lamborn v. County Commissioners*, 97 U. S. 181,  
*Union Pacific R. Co. v. Dodge County*, 98 U. S.  
541.

*Davie's Ex'rs v. City of Galveston*, 16 Tex. Civ. App.  
13, 41 S. W. 145, holding:

"3. Since a deed from a tax collector of the City of Galveston to a purchaser at a tax sale of land is no evidence of title without proof of all the jurisdictional prerequisites, the payment of the tax to avoid such sale, though made under protest, and with notice that the payor will sue to recover it, is not a compulsory payment."

On this point we quote from the opinion:

"The appellants, when they paid the taxes complained of, were in the undisturbed possession of their properties, and the tax collector was without power to disturb their possession; nor could a purchaser at tax sale eject them from the lands, except by a judgment of a court of competent jurisdiction, and, to entitle the purchaser to such judgment, he would be compelled to prove that the taxes for which the lots were sold were levied by the city council, and that the tax was legal, and that, in making the sale, the collector complied with all the requirements of the law necessary to empower him to make the sale. In such a suit, the appellants, it seems, would be in better position than in a suit to recover back the taxes. The appellants cannot be said to have been under compulsion. There was no immediate danger to themselves or their property constraining them to pay the taxes, and the payment must be held to be

voluntary, notwithstanding their protest and notice to the collector that suits would be instituted against the city to recover back the money."

*Cincinnati, N. O. & T. P. R. Co. v. Hamilton County*, 120 Tenn, 1, 113 S. W. 261, holding:

"2. A payment of taxes in order to be involuntary, so as to entitle the taxpayer to recover them for illegality, must be made on compulsion to prevent an immediate seizure of the taxpayer's goods or the arrest of his person; mere threats of litigation or apprehension of levy of distress warrants being insufficient.

"3. Payment of illegal taxes under protest before the taxes had become delinquent and without any demand or threat to levy merely to prevent the imposition of a penalty and interest which would accrue on the succeeding day was voluntary, so that the taxes paid could not be recovered."

*Walser v. Board of Education*, 160 Ill. 272, 43 N. E. 346, holding:

"4. A payment made to prevent the sale of real estate for an illegal tax is a voluntary payment."

We quote from the opinion:

"To recover from a municipality taxes illegally collected and paid over, the tax must have been illegal and void, paid under compulsion, or, what would be equivalent thereto, received to the use of the municipality from the collecting officer. *Elston v. City of Chicago*, *supra* (40 Ill. 514); *Railroad Co. v. Commissioners*, 98 U. S. 541; *Preston v. City of Boston*, 12 Pick. 15. The tax in this case was illegal and void, and received from the collecting officer by and for the use of the municipality, as appears from the averments of the bill. This would not be sufficient, but it must further appear that the pay-

ment was compulsory. A payment made to prevent the sale of real estate for an illegal tax is not under compulsion, but must be regarded as voluntary. *Stover v. Mitchell*, 45 Ill. 213; *Falls v. City of Cairo*, 58 Ill. 403."

The above language is quoted and followed in the case of *Otis v. People*, 196 Ill. 542, 63 N. E. 1053, at 1054.

*Robinson v. Kittitas County*, 101 Wash. 422, 172 Pac. 553, holding:

"The grantee of an Indian homesteader, or his heirs, could not recover back from the county money voluntarily paid for taxes assessed on the land under mistake of law by the county, acting under a claim of right and without fraud; there having been no ignorance or mistake of fact."

In that case the Indian became entitled to a patent under the Acts of Congress by the terms of which the land was inalienable and untaxable for a period of 25 years, and a patent was executed to him, which by mistake did not recite the facts that the land was inalienable and non taxable for said period. The Indian sold the land within the period to Robinson who paid the taxes assessed thereon, and upon discovering that the land was non-taxable and inalienable the widow and heirs of Robinson brought action against the county to recover the taxes paid for the years 1904 to 1913.

We quote from the opinion affirming the action of the trial court in sustaining a demurrer to the complaint:

"\* \* \* the governing principle in such cases is stated as follows:

" 'It is settled law that money paid in satisfaction of

an illegal tax to a municipal corporation, acting under claim of right and without fraud cannot, in the absence of a statute authorizing it, be recovered back, where the payment was not compelled by duress or coercion and there was no ignorance or mistake of fact on the part of one making such payment' (citing) *Pittock & Ledbetter Lumber Co. v. Skamania County*, 98 Wash. 145, 167 Pac. 108; *Phelps v. Tacoma*, 15 Wash. 367, 46 Pac. 400; *Dillon, Mun. Corp.* (5th Ed.), sec. 1617."

*Gaar, Scott & Co. v. Shannon* (Tex. Civ. App.), 115 S. W. 361, holding:

"6. One paying an illegal demand, with knowledge of the facts rendering the same illegal, without any immediate necessity therefor, and not to release his person or property from detention, or to prevent an immediate seizure, makes a voluntary payment which he cannot recover back, though at the time of making the payment he filed a written protest."

*Koewing v. Town of West Orange*, 89 N. J. Law 539, 99 Atl. 203, holding:

"2. Duress, for which a person may avoid a contract or recover back money paid under its influence, exists where one by an unlawful act of the beneficiary or his authorized agent, or by the act of some person with his knowledge, is constrained under circumstances which deprive him of the exercise of free will, to agree to, or to perform, the act sought to be avoided.

"3. The collection of taxes through threats by the authorities of a municipality to which they are owing, that unless the sum due is paid, the owner's right to redeem will be barred or foreclosed, does not amount to unlawful coercion, and is not duress.

"4. Payment is not rendered involuntary merely be-

cause the payer at the time makes a protest against the payment, and if money is paid under compulsion no protest is necessary to lay the foundation of an action to recover it; but, if there be doubt as to whether the payment was voluntary, the protest may be taken into account in determining that question.

“5. A voluntary payment cannot be recovered by the payer.”

The definition of duress in the second paragraph of the above syllabus is quoted from the opinion in the case of, *In Re Meyer* (D. C.), 106 Fed., at page 831.

*City of Houston v. Feizer*, 76 Tex. 365, 13 S. W. 266, holding:

“Where a person pays an illegal tax which he believes to be unjust, and the legality of which he is not averse to testing, when no process has issued for its collection, the payment is voluntary, and he cannot recover the amount paid.”

We quote the opinion in part on above point:

“That a tax voluntarily paid cannot be recovered, though it has not the semblance of legality, is well settled; and, as said by an elementary writer, ‘every man is supposed to know the law, and, if he voluntarily makes a payment which the law would not compel him to make, he cannot afterwards assign his ignorance of the law as the reason why the state should furnish him with legal remedies to recover it back. \* \* \* Mistake of fact can scarcely exist in such a case, except in connection with negligence; as the illegalities which render such a demand a nullity must appear from the records, and the tax-payer is just as much bound to inform himself what the records show or do not show as are the public au-

thorities. The rule of law is a rule of sound public policy also. It is a rule of quiet as well as of good faith, and precludes the courts being occupied in undoing the arrangements of parties which they have voluntarily made, and into which they have not been drawn by fraud or accident, or by an excusable ignorance of their legal rights and liabilities.' Cooley, Tax'n, 809."

*Bristol v. Town of Morganton*, 125 N. C. 365, 34 S. E. 512, holding:

"1. When a receiver of a bank pays taxes assessed against it, believing that the taxes were properly assessed against the bank instead of against the stockholders, he is bound by such act, whether it was right or wrong, as it was money paid under mistake of law, and cannot be recovered back."

*Couch v. Kansas City*, 127 Mo. 436, 30 S. W. 117, holding:

"Where the extension of the limits of a city is void, due to the unconstitutionality of the act authorizing it, taxes willingly paid to the city by the owners of property taken into its limits by the extension, being paid under a mistake of law, cannot be recovered."

Upon the question as to the mistake being one of law it is said:

"The facts are agreed to. Prior to the extension, the lands of the plaintiff and his assignors were without the limits of the city, and not subject to taxation for city purposes, and, the extension being illegal and void, the taxes thus assessed and paid were illegal. Nevertheless they were willingly paid and expended, with the other city taxes, for the common benefit of all the citizens who owned property within the extended limits. The counsel for appellant frankly concedes that they cannot be re-



covered, unless they were paid under a mistake of fact, or under a mistake of law mixed with a mistake of fact. We frankly confess our utter inability to discover where any mistake of fact comes into this case. The city authorities levied and collected this tax under the belief that the ordinance extending the city limits, and the statutes authorizing such ordinance, were legal and binding. It is not pretended that the plaintiff or his assignors were ignorant of the statute or of the ordinance passed in pursuance thereof, or of the fact that their lands were within the extended limits, or of any other material fact affecting the validity of these taxes. On the contrary they paid these taxes for precisely the same reason that the city authorities were induced to levy them,—because they believed that the ordinance extending the city limits and the statute authorizing the same were legal and binding. \* \* \* This was a mistake as to the force and effect of the statute and ordinance, purely a mistake of law, unmixed with any mistake of fact, and the plaintiff cannot recover.”

*Cincinnati, R. & Ft. W. R. Co. v. Wayne Tp.* (Ind. App.)  
102 N. E. 865, holding:

“1. In the absence of statute, there can be no recovery of taxes voluntarily paid, even though paid under protest.”

We quote from the opinion:

“Appellant does not indicate whether it bases its right to recover on the common law or on some provision of the statute. We will therefore consider first whether the complaint states a cause of action under the common law. ‘It has long been the rule in this state that there can be no recovery for taxes voluntarily paid, even though paid under protest, unless there is a statute au-

thorizing such a recovery.' *Dunham v. Board, etc.*, 95 Ind. 182, 183, and authorities there cited."

*Slimmer v. Chickasaw County*, (Iowa), 118 N. W. 779, holding:

"2. The right of a taxpayer to recover erroneous or illegal taxes voluntarily paid does not exist at common law, but only by reason of Code, sec. 1417, requiring the board of supervisors to direct the treasurer to refund to the taxpayer any tax erroneously or illegally exacted or paid."

*Commonwealth v. Ferries Co.*, (Va.), 92 S. E. 804, holding:

"1. Generally taxes voluntarily paid cannot be recovered back in the absence of a statute providing for their repayment."

In the opinion it is said:

"The general rule is well settled that taxes voluntarily paid cannot be recovered back in the absence of a statute providing for their repayment."

*Barrow v. Prince Edward County* (Va.), 92 N. E. 910, holding:

"1. A county road and poor tax illegally assessed, and voluntarily paid, cannot be recovered at common law."

*Howell v. Board*, 6 Idaho 154.

*Jenkins v. Lima Township*, 17 Ind. 326.

*Durham v. Commissioners*, 95 Ind. 182.

*Railway Co. v. Township*, 55 Ind. App. 533.

*Bristol v. Morganton*, 125 N. C. 365.

*City of Detroit v. Martin*, 34 Mich. 170.

- Powell v. Bd. of Commissioners*, 46 Wis. 210.  
*Shane v. City of St. Paul*, 26 Minn. 543.  
*Couch v. Kansas City*, 127 Mo. 436.  
*Lester v. Mayor, etc.*, 29 Md. 415.  
*Espy v. Town of Ft. Madison*, 14 Iowa 226.  
*City of Detroit v. Martin*, 34 Mich. 170.  
*Seldon v. School District*, 24 Conn. 91.  
*Foorest v. Mayor, etc.*, 13 Abb. Pr. (N. Y.) 330  
and at 352-53.  
*Flectwood v. City of N. Y.*, 2 Sandf. (N. Y.) 475.  
*Railway Company v. Marsh*, 12 N. Y. 308.  
*Bucknell v. Story*, 46 Cal. 589.  
*Hoke v. City of Atlanta*, 107 Ga. 416, and at p. 420.  
*Peebles v. City of Pittsburg*, 101 Pa. St. 304.  
*Wahausee County v. Walker*, 8 Kan. 431.  
*Davie's Executors v. City of Galveston*, 16. Tex.  
Civ. App. 13.  
*Dickson County v. Beardshear*, 38 Neb. 389.  
*Galveston City Co. v. City of Galveston*, 56 Tex.  
486.  
*Williams v. Stewart*, 115 Ga. 86.  
*Kraft v. City of Keokuk*, 14 Iowa 46.

Respondent respectfully submits that from all the foregoing that the Supreme Court of Oklahoma did not err in the 2nd paragraph of the syllabus and that the petitioner is not entitled to take anything by reason of his second specification of error and that this proceeding should be dismissed or the Supreme Court of Oklahoma affirmed.

### POINT III.

#### Third Specification of Error.

This specification is considered at pages 31-36 of the petitioner's brief, and is as follows:

"The Oklahoma Supreme Court further erred in denying a recovery in this action since such judgment operates to deny the protection of the Federal exemption of tax secured under treaty contract with the Federal Government and protected by the Federal Constitution, Section 10, Article 1."

We have already shown that under the procedure adopted by petitioner and because of his negligence in not complying with its requirements he rendered the allowance of his claims by the board impossible under the state statutes governing such procedure which he had elected as his remedy. These matters are treated of at pages 37-42, 43-46 of this brief, *supra*.

We therefore fail to see wherein the action of the respondent board, or the action of the Supreme Court of Oklahoma results in abrogating and destroying the benefits of a Federal grant and impairing the treaty contract between the United States and the Indian. Petitioner after citing authority arrived at the conclusion at page 34 of his brief that:

"We, therefore, assert in all confidence that the contractual character of the tax exemption to the Indian citizen, is established in this case beyond all controversy."

We as respondent see no reason why petitioner should

not make the assertion "in all confidence" as it is not denied by respondent, and is admitted by the Supreme Court of Oklahoma in the very first words of the second paragraph of the syllabus to the opinion of which petitioner complains. For the words "Where certain citizens of the Choctaw and Chickasaw Nations paid certain taxes assessed against their respective allotments, which were non-taxable," (Transcript of Record p. 211) certainly imply that the allotments were non-taxable upon which these taxes were assessed and paid, and no one has yet disputed that the non-taxable character of the land arose out of the Atoka Agreement and the Act of Congress of June 28, 1898, as contended by petitioner.

The language of the court in the syllabus, last quoted, does not, we submit, afford any ground, even the most remote, for the next assertion made by petitioner at page 34 of his brief:

"The Supreme Court of Oklahoma repudiates the Federal Contract, which, by its own constitution, it was bound to protect and enforce. The treaty in question cannot be, and is not, a 'mere scrap of paper.'"

At page 35 of petitioner's brief, he again reverts to the statement "that to deny a remedy is in effect a denial of the right," but we again submit that a failure to follow appropriate and adequate remedies afforded, heretofore pointed out at pages 47-53 of this brief, *supra*, or a failure to

attain the desired relief, by reason of neglect and negligence in not following the plain requirements of the remedy attempted to be pursued, does not constitute a denial of a remedy to petitioner or a denial of his right, if, under the facts disclosed by the transcript of the record in this case, he has any right.

The question of a remedy being afforded is further considered under the following specification of error.

#### **POINT IV.**

##### **Fourth Specification of Error.**

This specification is considered by petitioner at pages 37-42 of his brief, and is as follows:

“The judgment of the Oklahoma Supreme Court is error for the reason that it denies relief for the violation and destruction of a vested property right and leaves petitioners without any remedy whatever. The right which is thus destroyed existing by virtue of a treaty with the United States and an Act of Congress such judgment of the state court not only overrides ‘the due process clause,’ but also denies operation of ‘the equal protection clause’ of the Federal Constitution, violative of the 5th and 14th amendments thereof.”

If what is stated in the first sentence is true, what is said in the remainder of the paragraph is alleged by petitioner to follow.

Therefore according to the statement of petitioner if he was not denied a remedy, by reason of the decision complained of, the consequences enumerated by him do not

necessarily flow from the opinion of the Supreme Court of Oklahoma in this proceeding.

We assert that the Indian allottees were not deprived of a remedy, but that ample remedies were afforded them, and ample protection given them under the laws of the state of Oklahoma, as interpreted by its highest court.

In the first place there was no necessity of their paying taxes in question on their allotments. For had they not paid them, any tax sale of their lands, or any tax deed pretending to convey their allotments, because of the fact that their lands were non-taxable under the treaty and act of congress mentioned by petitioner in his brief, would have been absolutely void and conveyed no title and created no cloud upon the title of the Indians to their allotments, and could neither afford the basis of an action of ejectment to deprive him of the possession of his allotment, nor to quiet the title thereto in the tax deed holder, and likewise in Oklahoma a default judgment rendered against the allottee and based upon such a void deed would be null and void. This matter is considered at pages 65-66 of this brief, *supra*.

In the second place, the statutes referred to at pages 48-52 of this brief, *supra*, gave each Indian allottee a speedy and adequate remedy to avoid the payment of the tax assessed against his allotment, in any year in which it was

not taxable by applying to the board of county commissioners for the certificate provided for, upon presentation of which certificate to the county treasurer the same would be taken as a payment of or release from taxation of the premises for the period covered by such certificate. And this certificate could be applied for to avoid payment of the tax either while the same was on the assessment roll, or at any time after the tax was placed on the tax roll and was payable, or remained unpaid. It does not appear that any such a certificate was applied for by any of the allottees whose claims were assigned and presented by the assignee, Greenless, for allowance in this proceeding, for in neither the petition or claims is it shown such certificate was sought in any instance. If such remedy had been invoked under sects. 7353, 7354 of the Revised Laws of Oklahoma 1910, set forth at page 49 of this brief, *supra*, and the certificate had been refused by the board of county commissioners, an appeal would lie from its action to the district court of the county under sections 1640-1643 of said Laws, set forth at pages 50-51, *supra*, of this brief, and if its action had been adverse to the allottees, they could have appealed to the Supreme Court of Oklahoma, and if its action were adverse they could have appealed to this Court. But if the board of county commissioners of respondent county had allowed the certificate, or had it been allowed by the district court of the county or the Supreme Court of the state, the



allottees would never have paid the taxes in question, and would have had no claims for a refund of taxes paid to file with the respondent county or to be allowed or disallowed under the proceeding adopted by petitioner; which proceeding was to file the claims with the county clerk for allowance by the board of county commissioners under ch. 186 of Ses. Laws 1913, and sec. 1631 of the Revised Laws of Oklahoma, 1910, set out in this brief at pages 38-39, *supra*, and an appeal from the disallowance of the claims to the district court of the county (Transcript of the record 202-203) under sections 1640-1643 of the same laws set out at pages 50-51 of this brief, *supra*, where the question as to whether the respondent board of county commissioners had acted properly or improperly in rejecting the claims of petitioner was presented to the court by demurrer (Transcript of Record 203-204) and was decided adversely to the county, and appeal taken by the county to the supreme court of Oklahoma which upheld the board of county commissioners in its action disallowing these claims (Transcript of the Record 211-214), from which decision the petitioner prosecutes this writ (Transcript of Record 235).

Hence it appears that these Indian allottees had a speedy and adequate remedy for the protection of the rights mentioned in the third and fourth specifications of error, and if they failed in protecting such rights, it was not because of an adequate remedy not being afforded, but because

of their failure to avail themselves of the remedy afforded.

This matter is considered in this brief at pages 47-53, *supra*.

In the third place in his quotation from the case of *Patton v. Brady*, 184 U. S. 608-614, at page 26 of petitioner's brief, he informs us that the remedy to recover back taxes illegally assessed and paid is "*in an action of assumpsit for money had and received.*"

However, it does not appear that the petitioner has ever resorted to this remedy, for the board of county commissioners of respondent county is not a court having jurisdiction of such actions, and its jurisdiction cannot be enlarged on appeal to the district court under the Oklahoma procedure, but the jurisdiction of the district court on appeal is the same as the board and none other as heretofore shown in this brief at pages 5-6, *supra*. And again this action would be defeated for the reasons heretofore pointed out in this brief in discussing the first and second specifications of error, and in the opinion of the Supreme Court of Oklahoma.

In the fourth place it is intimated that there is a remedy such as was invoked in the case of *United States v. Chehalis County*, 217 Fed. 285, cited at page 22 of petitioner's brief, that case was originally brought in a court of the United States, by the United States filing a bill in

equity, but this proceeding did not originate in a bill in equity, and the board of county commissioners had no jurisdiction to entertain such a bill if it had been so filed with them, and it does not appear that such bill was filed with a Federal court.

Therefore, whether there be such a remedy may be ascertained in some other case involving that question, but the question is of no moment here except for the purpose of showing that petitioner insists he has such a remedy for the protection of his rights, and has not availed himself of it.

This matter has been treated of heretofore at pages 61-64, 57-84 of this brief, *supra*. And we have heretofore attempted to show herein why there could be no recovery in the procedure adopted for the recovery of the taxes paid in this case, and wherein the Supreme Court of Oklahoma was right in the holding in the first paragraph of the syllabus to its opinion, and that if right therein the question therein decided is broad enough to dispose of the case without the consideration of any other questions decided by it, in the second paragraph of the syllabus.

We have also attempted to show that the Supreme Court of Oklahoma was right in its holding in the second paragraph of its opinion, and that therein it is supported

by ample authority including cases determined in this Honorable Court.

The jurisdiction of this court is challenged in our motion and brief to dismiss the writ herein, and we respectfully refer the Court thereto for a discussion of the questions therein involved.

Wherefore in view of all the foregoing the respondent herein prays this Honorable Court that the opinion of the Supreme Court of Oklahoma, in this proceeding be either affirmed or the writ of certiorari herein be dismissed, and that it be so ordered or adjudged.

Respectfully submitted,

T. B. WILKINS,

*County Attorney of Love County,  
Oklahoma, Attorney for Respondent.*

*Of Counsel,*

RUSSELL BROWN,

*County Attorney of Carter County, Oklahoma,*

GEO. B. RITTENHOUSE,

P. T. McVAY,

CLINTON A. GALBRAITH

*of Coal County, Oklahoma,*

and

GEORGE TRICE.



DEC 18 1919

JAMES D. WAGER,  
CLERK.

# In the Supreme Court of the United States

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No. 224.

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COLEMAN J. WARD, by C. A. GREENLEES, *Assignee*,  
*Petitioner*.

vs.

THE BOARD OF COUNTY COMMISSIONERS  
OF LOVE COUNTY, OKLAHOMA,  
*Respondent*.

---

## MOTION TO DISMISS AND BRIEF ON BEHALF OF RESPONDENT

---

T. B. WILKINS,  
Attorney for Respondent  
CLINTON A. GALBRAITH,  
GEORGE TRICE,  
*Of Counsel*.

GEO. B. RITTENHOUSE,  
P. T. McVAY,  
BASS & HARDY,  
*Amicus Curiae*.

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In the Supreme Court of the  
United States

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No. 7224.

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COLEMAN J. WARD, by C. A. GREENLEES, *Assignee*,  
*Petitioner*.

vs.

THE BOARD OF COUNTY COMMISSIONERS  
OF LOVE COUNTY, OKLAHOMA,  
*Respondent*.

---

**MOTION FOR PERMISSION TO FILE BRIEF AS  
AMICUS CURIAE.**

---

Comes now the Board of County Commissioners of Coal County, Okla., by their attorneys, George Trice and C. A. Galbraith, and show to the Court that the above styled and numbered cause was an action in the court below by the assignee of certain tax payers who had paid money to the county treasurer of Love County, as

taxes assessed against their respective allotments as Indian citizens, for a refund of the money so paid; that large sums of money were collected as taxes from the owners of the same character of Indian lands by the treasurer of Coal county during the years 1909, 1910 and 1911, under the same conditions and circumstances as was done in Love county, Okla., and is liable to refund the same if the court should so decree in this cause; and that Coal county is, therefore, directly interested in the question to be determined in this cause; that a request was made upon George P. Glaze, Esq., attorney of record for the petitioner, but he withholds his consent to the granting of the request herein made for leave to file a brief in support of the respondent's contention in this case, as *Amicus Curiae*; that T. B. Wilkins, county attorney of Love county, who represented the respondent in said cause in the Supreme Court of Oklahoma has given his consent to the filing of such brief, as evidenced by his request in writing addressed to this Court, dated Marietta, Oklahoma, November 24th, 1919, attached hereto, marked "Exhibit A," and made a part hereof.

Wherefore, the Board of County Commissioners of Coal county, Oklahoma, pray that this Honorable Court make an order granting them leave to file brief in the above entitled and numbered cause, as *Amicus Curiae*, in support of the contentions of the respondent herein.

THE BOARD OF COUNTY COMMISSIONERS  
OF COAL COUNTY, OKLAHOMA,  
By CLINTON A. GALBRAITH,  
GEORGE THICE,  
T. B. WILKINS, County Attorney,  
*Their Attorneys.*

#### EXHIBIT "A".

IN THE SUPREME COURT OF THE UNITED STATES.

Coleman J. Ward, et al., Petitioner, vs. Board of County Commissioners of Love County, Oklahoma, Respondent. No. 7224.

To the Honorable, The Chief Justice, and the Associate Justices of the Supreme Court of the United States:

SIRS: T. B. Wilkins, county attorney of Love county, Oklahoma, respondent in the above entitled and numbered cause, hereby consents that George Trice, Esquire, of Coalgate, Oklahoma, and C. A. Galbraith, of Ada, Oklahoma, special attorneys for Coal county, Oklahoma, may appear as Amicus Curiae in said cause on behalf of the respondent and file a brief and motion to dismiss the same, or a brief upon the merits, as to them may seem advisable.

Witness my hand at Marietta, Oklahoma, on this, the 24th day of November, 1919.

T. B. WILKINS,  
*County Attorney of Love County, Oklahoma.*

IN THE SUPREME COURT OF THE UNITED STATES.

Coleman J. Ward, by C. A. Greenlees, assignee, Petitioner, vs. The Board of County Commissioners of Love County, Oklahoma, Respondent. No. 7224.

#### MOTION TO DISMISS.

Comes now the Board of County Commissioners of Coal County, Oklahoma, by Clinton A. Galbraith and George Trice, its attorneys, and moves the Court to dismiss the writ herein for the reasons and upon the grounds following:

First: Because there is no federal question decided in the case.

Second: Because the Supreme Court of the State of Oklahoma decided the case against the plaintiff in error, the petitioner herein, on a matter of general law broad enough to sustain the judgment, and did not determine a federal question adversely to the petitioner.

Third: Because, even if it be conceded that the Supreme Court of the State of Oklahoma, decided a federal question in the case against the plaintiff in error, the petitioner herein, nevertheless, the court decided against him also upon an independent ground, not involving any federal question, and broad enough to support the judgment, and for that reason the federal question decided, if any, will not be considered here.

Wherefore, The Board of County Commissioners of Coal County, Oklahoma, pray that the writ herein and the proceedings for a review of said case be dismissed.

CLINTON A. GALBRAITH,  
GEORGE TRICE,

*Attorneys for Coal County, as Amicus Curiae.*

T. B. WILKINS, *County Attorney.*  
*For Love County.*

#### NOTICE.

IN THE SUPREME COURT OF THE UNITED STATES.

C. A. Greenlees, assignee, Petitioner, vs. The Board of County Commissioners of Love County Oklahoma, Respondent. No. 7224.

To J. E. Bennett and George P. Glaze, attorneys for plaintiff in error, the petitioner, C. A. Greenlees, assignee, plaintiff in error.

You will please take notice that in answer to your petition for a writ of certiorari in the Supreme Court of the United States filed in said court in the above entitled and numbered case on October 31st, 1918, and allowed by said court, respondent, The Board of County Commissioners of Coal County, Oklahoma, as amicus curiae, will on Monday the 5th day of January, 1920, at noon, or as soon thereafter as may be allowed by the

court, make a motion to dismiss said writ for the reasons set out in said motion.

CLINTON A. GALBRAITH,  
GEORGE TRICE,

*Attorneys for the Board of County Commissioners of  
Coal County, Oklahoma.*

T. B. WILKINS, *County Attorney,  
For Love County.*

SERVICE.

I, George P. Glaze, attorney for the petitioner, C. A. Greenlees, assignee, do hereby acknowledge service of the foregoing notice, motion, and the attached printed brief in support of such motion upon me as such attorney for petitioner this ---- day of December, 1919.

-----  
*Attorney for Petitioner,*  
C. A. Greenlees, Assignee.





In the Supreme Court of the  
United States

---

COLEMAN J. WARD, by C. A. GREENLEES, Trustee,  
*Petitioner,*

vs.

THE BOARD OF COUNTY COMMISSIONERS OF  
LOVE COUNTY, OKLAHOMA, *Respondent.*

---

**BRIEF ON BEHALF OF RESPONDENT ON  
MOTION TO DISMISS.**

---

**STATEMENT OF CASE.**

The lands allotted to citizens of the Choctaw and Chickasaw Nations of Indians in Oklahoma were exempt from taxation for a period of not exceeding twenty-one years from the date of patent by the Act of Congress of June 28th, 1898, (30 St. at Large, 495); notwithstanding this exemption taxes for State, County and other purposes for the years 1908, 1909, 1910 and 1911 were assessed against such lands in Love county, Oklahoma.

Upon learning that said lands had been assessed for

taxes for the year 1908 certain citizens of the Choctaw and Chickasaw Nations instituted suit in the Superior Court of Logan County, Oklahoma, to restrain the collection of said taxes upon said lands, and doing the things required by the revenue and taxation laws of the State of Oklahoma, with reference to the collection and assessing of such taxes. Such suit was decided adversely to the plaintiffs therein, and the cause was appealed to the Supreme Court of Oklahoma, which, on March 21st, 1911, sustained the trial court, holding such lands to be taxable. Thereupon the plaintiffs appealed said cause to the Supreme Court of the United States, where on May 12th, 1912, a decision was handed down reversing the decision of the Supreme Court of Oklahoma, holding that the said lands were not subject to taxation.

*Choate et al. v. Trapp et al.*, 224 U. S. 665.

While said cause was pending in the several courts, and before it was finally determined in the Supreme Court of the United States, some of said Indians paid the tax assessed against their allotments for the years 1908, 1909, 1910 and 1911, to the county treasurer of Love county, Oklahoma, "fearing that the contention that said lands were taxable was true, but refusing to believe that same was true \* \* \* said Indian citizens at the time of such payment objecting and protesting to said county treasurer \* \* \* and for the further purpose of preventing the heavy penalties provided under the state law of Oklahoma from being imposed for non-payment of taxes and to prevent said lands from being sold for non-payment of taxes and in order to protect themselves from and against great loss and damage in the event said action so pending was decided against them, they paid such amounts" assessed against their lands for said years.

(Transcript of Record, page 14-200.)

The taxes for the year 1908 were paid between January 1 and July 1, 1909; the taxes for the year 1909 were paid between January 1 and July 1, 1910; that the taxes for the year 1910 were paid between January 1 and July 1, 1911; and the taxes for the year 1911 were paid between January 1 and July 1, 1912.

(Transcript of Record 10.)

The petitioner, C. A. Greenlees, plaintiff in error, does not claim to be a member of either the Choctaw or Chickasaw tribes of Indians, but does claim to be the assignee of sixty-seven (67) claims for taxes so paid, made to him by the various members of said tribes so paying the same as above set forth. These claims are alike with the exception of the name of the allottee, the description of the land, the years for which the taxes were paid, and the amount of such tax paid, and it appears therefrom that in most instances the taxes were not paid for all of the years 1908, 1909, 1910, and 1911 by the allottees, but for only certain of those years which vary in the different claims assigned. (Transcript of Record, pages 14-215.)

Petitioner, C. A. Greenlees, attempted to collect these claims for his own use and benefit by filing them, with his petition attached, with the county clerk of Love county for allowance by the board of county commissioners as a proper charge against said county on the 25th day of October, 1915, and more than two years after the last of said taxes are shown to have been paid. (Transcript of Record, page 202.) Each of said claims with the exception above pointed out being as follows:

"By reference plaintiff pleads all the matters alleged and set-forth in Exhibit "L" 1, hereto attached, filed herewith, and made a part hereof, as though set-forth herein at length, together with the verifications of said claim and the assignment thereof to plaintiff.

Plaintiff further alleges that no part of said claim has been paid him or anyone for him, and that the said demand is just, true, due and wholly unpaid.

### AFFIDAVIT FOR REFUND OF ERRONEOUS TAX.

Roll A-11928.

Township 9 South, Range 1 East, Section 3.

Coleman J. Ward, Sex M; Blood 1/32; Age 19.

Description, S $\frac{1}{2}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$ , E $\frac{1}{2}$ , SW $\frac{1}{4}$  and NW $\frac{1}{4}$ ; W $\frac{1}{2}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$ ; S $\frac{1}{2}$  NE $\frac{1}{4}$  NE $\frac{1}{4}$  N $\frac{1}{2}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$  E $\frac{1}{2}$  SW $\frac{1}{4}$  NW $\frac{1}{4}$  SW $\frac{1}{4}$  NW $\frac{1}{4}$ ; 1908 tax, \$59.55, paid 3-28-11; 1909 tax, \$38.88, paid 3-28-11. Total \$98.43. State of Oklahoma, Love County."

Followed by the affidavit of the claimant.

This is followed by an assignment of the claim as follows:

"I, Coleman J. Ward, allottee as shown above, hereby assign and transfer the above demand and chose in action due claimant from Love county, Oklahoma, to C. A. Greenlees, who is hereby designated trustee for said claim, and authorized to sue and collect said demand in his own name. The consideration of this transfer is the agreement hereby made by the said C. A. Greenlees that he will employ the necessary counsel and incur the expense incident to such suits, proceedings and appeals as shall be necessary to recover said demand. In event of recovery herein said C. A. Greenlees shall first pay claimant 50 per cent of the tax, penalty and costs collected herein, or that proportion of the tax, penalty and costs so collected, and shall retain all of the remainder of the sums collected and accruing, which shall be his compensation for his services and expenditures herein. In event he recovers nothing, he shall receive nothing from claimant.

This contract shall be void within six months from date hereof, unless legal proceedings be instituted there-

on within that period. The terms of this contract are hereby accepted by the said C. A. Greenlees.

Dated this 13th day of September, 1915.

COLEMAN J. WARD,  
C. A. GREENLEES."

"EXHIBIT 'L' 1."

Each claim so filed was disallowed by the Board of County Commissioners of Love County, November 3rd, 1915, and thereupon petitioner filed notice of appeal to the District Court of said county, and executed an appeal bond pursuant to the laws of Oklahoma, as in such case provided. (Transcript of the Record page 202).

In the District Court the Board of County Commissioners demurred to the petition because it was insufficient in law, and showed upon its face that no cause of action against the county was stated therein, and upon the further ground that it appeared from the face of said petition that each of the claims set-out therein was barred by the Statute of Limitations. (Transcript of the record, page 202 and 204.)

Said demurrer was overruled by the District Court, and the Board of County Commissioners refused to plead further, and judgment was entered for the claimants. (Transcript of Record 202.) An appeal was duly perfected from such judgment to the Supreme Court of the State.

On the 11th day of June, 1918, the Supreme Court handed down a decision in said cause reversing the judgment of the trial court upon the grounds that:

(1) There is no statute in Oklahoma imposing liability upon a county for taxes wrongfully collected by

its county treasurer and paid over to the state or a municipal subdivision thereof other than the county.

(2) That where taxes are assessed against the allotted lands of certain Choctaw and Chickasaw Indians, which were non-taxable, and in order to avoid threatened sales thereof, and to further avoid the imposition of penalties prescribed for failure to pay taxes when due, and where litigation was pending in the courts seeking to enjoin the collection of such taxes, and where the parties were fully informed as to the law making such lands non-taxable, and there was no immediate necessity for the payment of such taxes to prevent the seizure of the person or property of such persons, that a payment of such taxes was a voluntary payment, and in the absence of a statute expressly authorizing it cannot be recovered back.

The petitioner, plaintiff in error, brings the case here for review on writ of certiorari.

#### POINT 1.

There is no federal question decided in the case.

It is to be borne in mind, that the Indians who paid these taxes were not seeking to restrain their collection in this case, neither were they seeking to remove clouds from the title to their lands caused by taxes being levied thereon, tax sales thereof or tax deeds, none of these Indians were parties to this proceeding at any time. The money paid the county treasurer for taxes on their allotments, although paid by Indians, was not restricted by any treaty or Act of Congress, as to this money they had as complete and unrestricted control over it as any other citizen of Oklahoma has over his money, and might spend it as

they wished and might pay it to the county treasurer and thereafter assign a claim for such money, paid by them, to the petitioner, C. A. Greenlees, or any other person, without violating or drawing in question any Act of Congress, treaty or the Constitution of the United States. The Petitioner, C. A. Greenlees, is not an Indian; the only claim he pretended to have against the county of Love, was by reason of his being the assignee of the money so paid to the county treasurer as taxes on these allotted lands. Attention is called to the fact that in attempting to collect such money so paid from Love county petitioner did not proceed under any treaty, or federal statute or provision of the Constitution of the United States, but, on the contrary, attempted to invoke a state statute and follow the procedure prescribed by state law for the purpose of having his claims allowed by said county and in its opinion the Supreme Court of Oklahoma was not called upon to decide a federal question, but on the contrary, to decide whether or not in attempting to comply with the state procedure for the allowance of his claims against the county he had complied with such procedure so as to be entitled to the allowance of his claim. Upon this point their decision was as follows:

## 1.

"In the absence of a statute imposing liability therefor a county is not liable for taxes wrongfully collected by a county treasurer and by him paid over to the state or a municipal sub-division of the state other than the county against which liability is sought to be imposed.

## 2.

Where certain citizens of the Choctaw and Chickasaw Nations paid certain taxes assessed against their respective allotments, which were non-taxable, in order



to avoid a threatened sale of their lands and in order to avoid the imposition of penalties thereon for failure to pay said taxes and where at the time of said payment there was pending litigation seeking to enjoin the collection of said taxes, and where at the time said parties were fully informed as to the law which made said taxes illegal and there was no immediate necessity for the payment of said taxes to prevent a seizure of the person or property of said persons, Held: that said payment was voluntary, and in the absence of statutory authority therefor cannot be recovered back." (Transcript of record page 211).

That is, the Court decided that there was no statute in Oklahoma making the county liable for taxes wrongfully collected by the county treasurer and that taxes collected as were those alleged in the petition were voluntarily paid and denied a refund. In this determination no federal question was decided. The entire adjudication made by the Oklahoma Supreme Court in the case, related solely to state procedure which the petitioner, C. A. Greenlees, as assignee, had attempted to follow in seeking an allowance and payment of his claims against Love county. In so determining the court had in mind the taxing and revenue laws of the State of Oklahoma, by which the county treasurer is made the collecting agent for the state, and the municipal and quasi municipal subdivisions thereof, such as school districts, cities, towns, counties, etc., for the collection of taxes levied for their support, and that of the taxes collected by such county treasurer in any year, but a small part thereof was for the benefit of, or belonged to the county, and that this part was all that ever came into the hands of, or under the control of the county and was the only part ever received or used by it; that the county treasurer was required at short intervals to pay to the state the taxes collected by him for it, and likewise at short intervals to pay to all the

other municipal and quasi municipal corporations the taxes collected by him for them respectively, and that during the intervening months between July 1, 1912, when the last payment of taxes was made by petitioner's assignors, and October 25th, 1915, when he filed his claim as against the county of Love, under such laws the county treasurer would have long since paid out all the taxes so collected.

The Supreme Court of Oklahoma also evidently had in mind the provision of the statute of the state which petitioner was attempting to proceed under in his attempt to file a claim against the county for allowance by its Board of County Commissioners, which provides (R. L. Okla. 1910):

"Sec. 1631. No account shall be allowed by the County Commissioners unless the same shall be made out in separate items, and the nature of each item stated; \* \* \* which account so made out shall be verified by affidavit setting forth that the same is just and correct and remains due and unpaid, which account shall be regularly filed with the county clerk five days before the first day of the meeting of the county commissioners. \* \* \*"

Now the petitioner had verified his account as required by the law, which he had invoked and was trying to follow and he had also filed it, but he had failed to comply with the statute in that he did not itemize it showing what part of the taxes paid were paid for county levy, and what amount the county had received, and for what amount it was properly chargeable, and as the account was not so itemized so that the county commissioners might know what amount might properly be allowed as a charge against the county, they did not err in rejecting the claim for that reason in view of the procedure under which petitioner, C. A. Greenlees, was attempting to collect his claims, and the

Supreme Court of Oklahoma so holds in that part of its opinion above quoted. For it is to be noted that petitioner alleges in his petition (Transcript of Record, page 10), that the allotments were "assessed for taxation in the years 1908, 1909, 1910 and 1911 and for succeeding years," and in his different accounts he only gives the gross amount paid each year for all taxes assessed and levied against the land, which included taxes for all purposes, and does not itemize such account to show what part thereof was county tax and for what amount, if any, there was a proper charge against the county which the Board of County Commissioners would have authority to allow (Transcript of Record, pages 14-20).

The holding of the Supreme Court of Oklahoma in said cause was in conformity with the established interpretation placed upon said section by said court.

In *Smith v. Board of County Commissioners*, 56 Okla. 672, at 677, the section is quoted, and it is there said:

"No attempt was made in filing these claims of the county commissioners to comply with Section 1631, Rev. Laws 1910 \* \* \* The first count of the amended petition was for money expended, but neither the amended petition nor the exhibit attached thereto set out the items of expenditure or the purpose thereof.  
\* \* \* ."

And in that case, the action of the trial court in sustaining a demurrer to the petition because it failed to state a cause of action was affirmed.

In *Allen v. Commissioners of Pittsburg County*, 28 Okla. 773, in passing upon the authority of a board of county commissioners, and with reference to the manner in which claims should be made out for presentation to

them for allowance under the statute, at page 775, the following from the case of *Osterhoudt v. Rigney*, 98 N. Y. 232, is quoted with approval.

"But boards of audit in allowing accounts are limited to the powers conferred upon them by the statute; and when they transgress these limitations, their acts, like those of any other tribunal of limited jurisdiction, are void. If, for example, a board of town or county auditors should allow a claim which was plainly neither a town nor county charge, its determination would be void, for the reason that such charges only are within its jurisdiction. \* \* \*

The same rule would follow if the account presented and allowed was one which the board, by reason of the omission of some indispensable condition, had no right to consider. For example, the statute declares that 'no account shall be audited by town auditors for any services and disbursements unless made out in items and verified by the claimant.' 'The object of these provisions is the protection of the taxpayers against false and fraudulent claim, and are clearly mandatory upon the board.' "

It is to be further noted that this case originated in the filing of the petition and claims with the Board of County Commissioners for allowance, and that from their disallowance of the claims an appeal was taken to the district court, and that under the procedure in such cases of the State of Oklahoma, as interpreted by its highest court, the district court takes appellate jurisdiction only, the same being confined to the jurisdiction of the board and none other, and that such appeal cannot be converted into an action in equity so as to enlarge the jurisdiction beyond that of the inferior tribunal.

*Parker v. Board of Commissioners*, 41 Okla. 723;

*Bostock v. Board of County Commissioners*, 19 Okla. 92.

As we have seen, the petitioner, C. A. Greenlees, in presenting his claim for allowance by the Board of County Commissioners of Love County, was attempting to follow the state procedure for the allowance of claims against the county. He was not claiming that such state procedure which he invoked was void by reason of being in conflict with any act of Congress, or any treaty or any provision of the Constitution of the United States, but, on the contrary, by invoking such procedure, he was impliedly insisting upon its validity. And in deciding that he was not entitled to the allowance of his claims, because he had neglected to properly follow the state procedure which he was attempting to follow, the Supreme Court of Oklahoma decided no federal question, it decided only a question of procedure under state law, in which no federal question was involved, and the ground upon which it thus decided the case was broad enough to prevent a recovery by petitioner and to sustain its judgment.

The points decided, as above set out, being upon the construction of a state law as to procedure in the presentation and allowance of claims against a county, and the validity of the statutes involved not being questioned, the Supreme Court of the United States has no jurisdiction to review the decision of the state court upon such question.

*The Grand Gulf R. R., etc., Co. v. Marshall,*  
12 How. 165;

*King v. State of West Va.,* 216 U. S. 92.

These rulings of the State Supreme Court, which are decisive of the case, are rulings involving questions of local pleading and practice under the laws of the state, with reference to the presentation, form and allowance of such claims by the county, and pertain only to such pleading and practice, and hence are not

the subject of review by the Supreme Court of the United States.

*Brinkmeirer v. Mo. Pac. Ry. Co.*, 224 U. S. 268, at 270.

Even when descent of allotted Creek Indian lands in Oklahoma is involved, rulings of the state court on matters of local pleading and practice are not reviewable by the Supreme Court of the United States.

*Washington v. Miller*, 235 U. S. 422, at 429.

The decision of the state court, above quoted, was upon matters dependent exclusively upon the law of the state and is conclusive upon the United States Supreme Court.

*Bush v. Person*, 18 How. 82, at 83.

Even were the Indian allottees bringing this proceeding and maintaining it under a state statute, they and this court would be bound by the decision of the state court construing and applying such state statute, as its decisions would involve no federal question.

Thus a decision of the highest court of a state that when an Indian tribe avails itself of the privilege given by a state statute to maintain suits in the state courts in the tribal name such tribe is bound by a limitation in the statute as to the time in which the suit must be brought, involves no federal question, and is not reviewable in the Supreme court of the United States.

*Seneca Nation of Indians v. Christy*, 162 U. S. 283, where in the opinion it is said, referring to the act of the state legislature under which the Seneca Nation had brought the action:

"The Seneca Nation availed itself of the act in bringing this action, which was subject to the provision, as held by the Court of Appeals, that it could only be brought and maintained 'in the same manner and within the same time as if brought by citizens of this state in

relation to their private individual property and rights.' Under the circumstances, the fact that the plaintiff was an Indian tribe cannot make federal questions of the correct construction of the act under the bar of the statute of limitations.

"It appears that the decision of the Court of Appeals was rested, in addition to other grounds, upon a distinct and independent ground, not involving any federal question, and sufficient in itself to maintain the judgment, the writ of error falls within the well settled rules on the subject, and cannot be maintained. *Eustis v. Bolles*, 150 U. S. 361; *Gillis v. Stinchfield*, 159 U. S. 658. Writ of error denied."

The judgment of the State Supreme Court, rendered after the taking effect of the Act of September 6, 1916, amending Section 237 of the Judicial Code, is reviewable by the United States Supreme Court, if at all, only by virtue of that act and in accordance with its provisions.

*Rust Land & Lumber Co. v. Jackson*, 39 Sup. Ct. Repr. 424.

Therefore in deciding that the petition does not separate the amount of taxes paid so that it could be determined what portion was received by the county for which it might possibly be liable, the Supreme Court of Oklahoma did not decide any federal question, and the question decided by it was broad enough to support its judgment affirming the judgment of the district court sustaining the demurrer to the amended petition, and for this reason and for reasons heretofore pointed out, and under the authority of the cases above cited, there is no question presented for review by this court, reviewable under Section 237 of the Judicial Code, as amended, and hence the writ herein and this appeal should be dismissed.

## POINT II.

The state court decided the case against the petitioner, on a matter of general law broad enough to sustain the judgment, and did not determine a federal question adversely to him.

What has been said, heretofore, with reference to the first ground for dismissal, is equally applicable to this second ground of the motion to dismiss.

The Supreme Court of Oklahoma further decided in its opinion with reference to the judgment of the district court overruling the demurrer to the petition, that:

In *Johnson v. Grady County, supra*, the action as to recover certain taxes paid to Grady County on lands allotted to a citizen of one of the Five Civilized Tribes. The payment in that case was held to be voluntary. Upon rehearing it was said:

"As to the second ground raised by plaintiff, relative to the recovery of taxes voluntarily paid, we note the distinction attempted to be drawn between an erroneous tax and an illegal tax; but we see no reason why we should recede from our former holding on this question, as our courts have spoken fully on that particular point and held against plaintiff's contention. See original opinion for authorities. The tax sought to be recovered in this case was paid upon land. It is difficult to see how a person could plead coercion or duress in the payment of such a tax. A tax upon personal property, or a franchise, might be coerced, but it appears impossible that such a contingency could arise in a land case, and most assuredly no duress, coercion or even protest has been shown in this case."

(Transcript of Record, pages 214-215.) The facts alleged showing under what circumstances the taxes were paid are set out in the opinion of the court (Transcript of Record, pages 213-214), and are recited in our statement of the case in this motion.



The syllabus to the opinion written by the court (Transcript of Record, page 211) is as follows:

## I.

"In the absence of a statute imposing liability therefore a county is not liable for taxes wrongfully collected by a county treasurer and by him paid over to the state or a municipal subdivision of the state other than the county against which liability is sought to be imposed.

## II.

"Where certain citizens of the Choctaw and Chickasaw Nations paid certain taxes assessed against their respective allotments, which were non-taxable, in order to avoid a threatened sale of their lands and in order to avoid the imposition of penalties thereon for failure to pay said taxes, and where at the time of said payment there was pending litigation seeking to enjoin the collection of said taxes, and where at the time said parties were fully informed as to the law which made said taxes illegal and there was no immediate necessity for the payment of said taxes to prevent a seizure of the person or property of said person, held: that said payment was voluntary, and in the absence of statutory authority therefor cannot be recovered back."

1. The only federal question contended for by petitioner, which question was that under the acts of Congress and Indian treaties, these lands allotted to Choctaw and Chickasaw citizens were non-taxable at the time the taxes were levied and paid, is not decided against the petitioner, but his contention is conceded to be true at the very beginning of the syllabus, and throughout the opinion. (Transcript of Record, pp. 211-218.)

This concession and admission would not give this court jurisdiction to review the decision of the state court, for the federal question was not actually decided

adversely to the party claiming a right under the federal law, as assignee of claims of Indians for taxes paid on their allotments which were non-taxable.

And further, the judgment as rendered could have been given without deciding any federal question, for, as rendered, the decision is founded upon state procedure as to presentment, form and allowance of claims against the county, as shown in our discussion of the first ground of this motion, and upon a proposition of general law as to what constitutes a voluntary payment of taxes, which precludes a recovery of taxes so paid, as shown by the syllabus and that part of the opinion last quoted.

That this court has no jurisdiction to review such decision, for the reasons above pointed out, appears from the following:

*Eustis v. Bolles*, 150 U. S. 361, where, at page 366, it is said in the opinion by Mr. Justice Shiras:

"It is settled law that, to give this court jurisdiction of a writ of error to a state court, it must appear affirmatively, not only that a federal question was presented for decision by the state court, but that its decision was necessary to the determination of the case, and that it was actually decided adversely to the party claiming a right under the federal law or Constitution, or that the judgment was rendered could not have been given without deciding it. *Murdock v. Memphis*, 20 Wall. 590; *Cook County v. Calumet & Chicago Canal Co.*, 138 U. S. 635."

See, also, *Fowler v. Lamson*, 164 U. S. 252, at 255.

Further, it is to be observed that the decision of the state court upon the face of the record is entirely consistent with the construction of the federal statute and Indian treaty contended for by petitioner, that the

land was non-taxable, and therefore no case is made out for the exercise of the appellate jurisdiction of this court.

*Ocean Ins. Co. v. Polleys*, 13 Pet. 157, at bottom of page 162, where it is said:

“If, therefore, the decision made by the state court is upon the face of the record entirely consistent with the construction of the statute contended for by the party appellant, no case is made out for the exercise of the appellate jurisdiction of this court.”

Therefore, as the only construction placed upon the only federal question contended for by petitioner, C. A. Greenlees, was an admission of the correctness of his contention, he cannot claim that he was prejudiced by this admission which he induced the state court to make, and thereupon make the same the foundation for a writ to review the decision of the state court, and this being true, there is no federal question in the case for review, and the writ should be dismissed.

2. The next question is, does the determination that the tax was voluntarily paid, under the conditions shown in the petition of C. A. Greenlees, involve the determination of a federal question by the Supreme Court of the state which is reviewable by this court?

We are aware that it has been determined by this court that a tax may be exacted in such manner and by such means that its payment will not be considered voluntary, and it may be so imposed as to involve a federal question.

In *Atchison, Topeka & Santa Fe Ry. Co. v. O'Connor*, 223 U. S. 280, it appears that the railway company was a Kansas corporation and that a part of its property was situated in the State of Colorado, in which

latter state it had by complying with the laws then in force obtained a right to do business in the year 1897, and that thereafter, in 1907, the legislature of Colorado passed an act, which applied to the railway company, by which it was required to pay an additional license tax annually. A failure to pay this tax incurred (a) money penalties for delay in payment, (b) a forfeiture of right to do business, and (c) a risk of having contracts declared illegal in case of non-payment of the tax by the railroad company to avoid the consequences, enumerated, was under duress, and hence not voluntary, and, further, that the exaction thereof by such act was a violation of its constitutional rights under the circumstances and conditions set forth in the opinion.

In *Union Pac. R. Co. v. Pub. Service Com. of Mo.*, 39 Sup. Ct. Repr. 24, the railway company was a Utah corporation, and it appears that a very small part of its property was situated in the state of Missouri; that the company, desiring to issue a large amount of bonds, made application for certificate authorizing such issue to the Public Service Commission of Missouri, the statutes of Missouri (a) prohibiting the issue of such bonds without the authority of the commission, (b) impose severe penalties for such issue, and (c) purport to invalidate the bonds if it take place. (d) The bonds would be unmarketable if the certificate were refused.

The railroad company, to avoid the consequences above enumerated, paid an excessive fee under protest for the certificate, and it was held that the payment was, under the circumstances, made under duress, and hence it was not voluntary, and that its exaction was an unlawful interference with commerce among the states.

It is to be noted in both of the foregoing cases that under the state law the parties making the payments were subject to make the same, and these cases are to be distinguished from a case where the property upon which the tax was paid was not subject to taxation, or where the party paying the tax was not subject to the tax, under the state law. Thus where under like penalties a corporation not subject to the tax pays the same, it cannot recover back the tax as paid under duress.

*Garr, Scott & Company v. Shannon*, 223 U. S. 468, where in the opinion it is said:

"While a payment of the tax by one included in the class to which a statute applies in order to avoid penalties and forfeitures, is compulsory, it is not so as to one not included in such class and payment thereof by such person is voluntary and not under duress."

In determining, therefore, whether the tax was paid under duress, or whether its payment was voluntary and cannot be recovered back, the question as to whether the property upon which it was paid was taxable under the state law at the time when such tax became delinquent and before which time of its becoming delinquent no penalty would attach, for its non-payment, becomes very material and one of the determining facts in the case.

We will, therefore, proceed to the consideration of this question with reference to the allotted lands upon which the taxes in question were paid.

These lands, as shown by the allegations of the petition of the petitioner, C. A. Greenlees (Transcript of Record, pages 5-13), were assessed for taxation for state, county and other purposes under the revenue and taxation laws of Oklahoma for the years 1908, 1909, 1910 and 1911.

Under the laws of Oklahoma in force in 1908 the tax assessed for the year 1908 did not become delinquent until the third Monday in January, 1909.

Wilson's Rev. & Ann. St. Okla. 1903, Sec. (6013), provides:

"One-half of all taxes shall be due on the fifteenth day of June and the fifteenth day of December of each year, and on the third Monday of January following the assessment of taxes, all unpaid taxes shall become delinquent. All delinquent taxes shall, by the county treasurer, be advertised in some newspaper published in the county in which such taxes have become delinquent, \* \* \* and all such delinquent taxes shall bear interest at the rate of eighteen per cent. per annum, and to all delinquent taxes shall be added the cost of advertising the same, but in no case shall any other penalties attach, \* \* \*."

That is the tax levied for the year 1908 did not become delinquent and no penalty attached for non-payment and the person whose property was taxed was not required to pay the same until the third Monday in January, 1909. Before the date arrived for this tax to become delinquent, however, the state legislature passed an act which took effect upon the date of its approval on January 14, 1909, by which the time for the payment of taxes assessed for the year 1908 was extended so that such taxes did not become delinquent and no penalty for non-payment attached until the third Monday of April, 1909.

Session Laws of Oklahoma, 1909, Ch. 38, Art. IV, Sec. 1, page 627.

Section 1 of the act provides that:

"The time for the payment of the first half of the taxes levied for the fiscal year ending June thirtieth, nineteen hundred and nine, and for the deficiency for

the fiscal year ending June first, nineteen hundred and eight, is hereby extended until the third Monday of April, nineteen hundred and nine, and such taxes shall become delinquent after said third Monday in April, nineteen hundred and nine. \* \* \*

Before this tax became delinquent, however, under the above extension of time of payment and before the third Monday of April, 1909, the state legislature passed another act which took effect on the date of its approval on March 27, 1909, by which all such property as may be exempt by reason of treaty stipulations, existing between the Indians and the United States Government, or by federal law, during the force and effect of such treaties or federal laws, shall be exempt from taxation.

This Act, Ch. 38, Art. 1, Secs. 1 and 2, Sess. Laws Okla. 1909, pages 572-573, so far as material is as follows:

"Section 1. All property in this state, whether real or personal, including the property of corporations, banks and bankers, except such as is exempt, shall be subject to taxation.

"Section 2. The following property shall be exempt from taxation: \* \* \*

"8th. Such property as may be exempt by reason of treaty stipulations, existing between the Indians and the United States Government, or by federal laws, during the force and effect of such treaties or federal laws. \* \* \*

And by like provision in Section 6 of Art. X of the Constitution of Oklahoma, these lands were exempt from taxation. Vol. 1, R. L. Okla. 1910, page CIV.

It is therefore plain that the taxes under the assessment made for the year 1908 on these allotments never did become delinquent under the state law, and

that their non-payment never involved any penalty before the time the lands were specifically exempt from taxation under act of the legislature of March 27, 1909, and the law making them exempt has ever since its enactment and is now in force, being Section 7303 of the Revised Laws of Oklahoma, 1910, and such lands had been exempt from taxation since 1907, under Sec. 6 of Art. X of the State Constitution, and from this it is plain that these lands were not subject under State Constitution and statute to assessment for taxation for the years 1908, 1909, 1910 and 1911, the allotments in question being exempt from taxation under federal laws and treaty stipulations existing between the Indians and the United States Government as alleged by C. A. Greenlees in his petition (Transcript of Record, page 5), and hence being within the description of the state law of property exempt from taxation.

Moreover, it has been held by the Supreme Court of Oklahoma that the allotments of Choctaw and Chickasaw Indians were not taxable.

*Wood v. Gleason*, 43 Okla. 9.

And in several cases it has been held by the same court that allotments of Indians which were made exempt by federal law or Indian treaty with the United States Government from taxation were not taxable.

*Whitmore v. Trapp*, 33 Okla. 429;

*Weilep v. Audrain*, 36 Okla. 288;

*Lieber v. Rogers*, 37 Okla. 614;

*Marcy v. Board of County Commissioners*,  
45 Okla. 1;

*McGeisey v. Board of County Commissioners*,  
45 Okla. 10.

From all the foregoing it becomes apparent that none of the taxes paid on the allotments in question ever became delinquent under state law, and, further,



that the lands were under the State Constitution and statute exempt from all the taxes paid thereon, and, further, it is made to appear by the cases following that no penalty could have attached, and no valid proceeding could be had by which the title of the allottee could have been affected in any manner had the taxes not been paid.

In *Hutchinson v. Brown*, 167 Pac. 624 (Okla.), it is held in the syllabus by the court:

“Where, under the laws and treaties of the United States, an Indian homestead is exempt from taxation by a state and its subdivisions, a levy and assessment of taxes thereon, a sale of such lands for taxes, and tax sale certificate issued in pursuance of such sale, are absolute nullities; and the issuance and recording of a tax deed, based upon such void proceedings, does not set in operation the short statute of limitations against an action to recover such lands from a holder under such deed or to avoid such deed.”

In the opinion, speaking of the effect of such exemption from taxation under the laws and treaties of the United States, it is said:

“This exemption is not subject to violation by the state tax laws or administrative officers, directly or indirectly. So far as the state taxing power is concerned, the exempt lands do not exist; and so far as the exempt lands are concerned, the taxing power does not exist. The land is as effectively without the pale of the tax laws and their administration as if they were located in another state. All proceedings of the taxing power, having as their effect a violation of this exemption, are without jurisdiction and void, and the tax deed based upon such proceedings is void.”

No taxes, interest, penalties or costs could have been exacted had these taxes not been paid.

In *Davenport v. Doyle*, 57 Okla. 341, Indian lands which were exempt from taxation were sold for taxes for the year 1909, and tax deeds were issued. The Indian brought action to cancel and remove, as clouds upon his title, these tax deeds, and the same were cancelled and the clouds removed, the court holding that in bringing the action it was not necessary for him to tender or pay the taxes, interest, penalties and costs to redeem the land from tax sale, and that the tax deeds were void.

Had the allottees not paid these void taxes in question in this case, and had tax deeds been issued, as we have seen, the same would have been absolutely void and of no force or effect whatever, and being void a holder of such a tax deed could not even have made the same the foundation of an action to quiet his title to the premises conveyed by such a deed. For in Oklahoma an action to quiet title cannot be maintained upon a tax deed void upon its face. This is so held in the case of *Spalding v. Hill*, 47 Okla. 621, holding that:

“A tax deed void on its face vests in plaintiff no interest in the title to the land therein described, and as plaintiff must prevail on the strength of his own title, a judgment clearing his title thereto is void.”

Therefore it appears not only that such a tax deed void on its face conveys no title, but that a judgment quieting the title to the tax deed holder in the land thereby conveyed, which is founded upon such a deed, would be void.

See last cited cases and also:

*Clark v. Holmes*, 31 Okla. 164;

*Lewis v. Clements*, 21 Okla. 167.

Therefore, where the thing upon which the tax was paid was exempt from taxation and the penalties for

non-payment, as here, under the provisions of the State Constitution and statute, one paying such a tax could not claim that such penalties constituted duress as to him, for the very good reason that they did not apply to him or his property and their consequences, under the state law, could not have followed if the tax had not been paid. For under the allegations of C. A. Greenlees's petition, heretofore mentioned, these allotments of the citizens of the Choctaw and Chickasaw Nations were made exempt by act of Congress, approved June 28, 1898, and ratified by such nations December 1, 1898, and hence such lands under the provisions of the Oklahoma laws and Constitution, heretofore mentioned, were not included in the class of property to which the taxing and revenue laws of Oklahoma applied with reference to penalties for non-payment of taxes, sale of property for such non-payment, issue of certificates pursuant to such sale, and the issuance of tax deeds two years after the issuance of such certificates, on demand of the holder of such certificate and proper advertisement of application for such deeds, should the said certificates not be redeemed. These Indians merely paid a tax which did not apply to their lands, just as the plaintiff paid a tax which under the state law did not apply to and was not required of it in the case of *Garr, Scott & Co. v. Shannon*, 223 U. S. 468, where what is said in the opinion, as to the payment, in such a case, being voluntary and not recoverable, is especially applicable to the state of facts here upon the point now under consideration.

We quote from the opinion as follows in that case:

"Where a payment of the tax by one included in the class to which a statute applies in order to avoid penalties and forfeitures is compulsory, it is not so as to one not included in such class and payment thereof by such person is voluntary and not under duress."

"Where the state court decides that a corporation which claims that it only does an interstate business, but paid a tax levied only upon corporations doing an intrastate business made the payment not under duress, and the record shows that the question was fairly in the case, the judgment rests upon a ground of general law broad enough to sustain it."

We further quote from the opinion the law as especially applicable to the petition of C. A. Greenlees in the case at bar the following, bearing in mind what has been said as to these allotments not being taxable under the state law:

"3. If, therefore, the plaintiff had been included in the class to which this statute applied, and, under the duress of its automatically enforced provisions, had paid the tax to avoid the disruption of its business, it could have maintained an action to recover the amount thus exacted. In that suit it would have been entitled to a decision on the question as to whether the statute was constitutional, and to a review of the judgment if it had been adverse to the company's contention.

"But the company did not in any sense come within the purview of the act. The plaintiff alleged that it was engaged only in interstate commerce. If so, the statute did not require from it the payment of the tax. For the Supreme Court of Texas in *Allen v. Tyson-Jones Buggy Co.*, 91 Tex. 22, and *Miller v. Goodman*, 91 Tex. 41, has held that the franchise tax act had no application to corporations doing an interstate business. The duress of its provisions, therefore, operated only on those doing intrastate business; and if the plaintiff, on a mere demand, paid the tax imposed by a statute, applicable only to other corporations, it has no more right to recover than would a dry goods merchant who voluntarily paid a tax illegally imposed on those engaged in the selling of liquor.

"To permit those not affected by a statute to pay the sum thereby assessed, and then sue for its recovery on the ground that the act was void, would reverse the

rule that 'one who would strike down a state statute as violative of the Federal Constitution must bring himself by proper averments and showing within the class as to whom the act thus attacked is unconstitutional. He must show that the alleged unconstitutional features of the law injured him, and so operates as to deprive him of rights protected by the Federal Constitution.' *Southern Railway Co. v. King*, 217 U. S. 524, 534.

"What we have said shows that the question as to voluntary payment fairly arose out of the record, and was not arbitrarily injected into the case. *Leathe v. Thomas*, 207 U. S. 93, 99.

"A decision on the non-federal point could properly dispose of the plaintiff's suit to recover back what it had paid. The judgment of the Civil Court of Appeals must, therefore, be affirmed."

The above case is cited as authority for the dismissal in the following cases:

*Christopher v. Munger*, 242 U. S. 611;  
*Zavaglia v. Notarbartolo*, 243 U. S. 628.

In this case the question of voluntary payment arose fairly upon the record, the demurrer, one ground of which was a failure to allege facts sufficient to constitute a cause of action, and the petitioner cannot now claim reimbursement, the demurrer being overruled by the trial court, which judgment was reversed by the Supreme Court of the state (Transcript of Record, 205-211-219), while in the case of *Garr, Scott & Company v. Shannon*, the judgment sustaining a demurrer to the petition was affirmed by the state court, and there, as here, the state court held the payment voluntary. In both cases, as disclosed by the petition, the property was not liable to be taxed under the state law, upon which the taxes were paid, in both cases the payment upon a mere demand, of the tax imposed by statute, applicable only to others, did not render the payment involuntary and recoverable. And in both cases the de-

cision of the state court against the petitioner upon a matter of general law, that the payment was voluntarily made and not recoverable, was broad enough to sustain the judgment, and was upon a non-federal point.

But even if the allotments had been taxable under the provisions of the state law, there were no such drastic consequences attached to their non-payment, as to make their payment, a payment under duress, as in the case of *Atchison, Topeka & Santa Fe Ry. Co. v. O'Connor, supra*, and *Garr, Scott & Co. v. Shannon, supra*, where in addition to money penalties for delay, the right to do business was forfeited, and the risk incurred of having contracts declared illegal. Or is there such a penalty as attached in the case of *Union Pac. R. Co. v. Pub. Service Com. of Mo., supra*, where non-payment of fees rendered the bond issue invalid and unmarketable.

In case at bar the only consequences that would result from a non-payment of the tax were, as recited in the petition, heavy penalties added if taxes were not paid before the same became delinquent, and these penalties, as we have seen, were a charge of interest at eighteen per cent. per annum on delinquent taxes (Wilson's Rev. & Ann. St. Okla. 1903, Sec. 6013), and to prevent said lands from being sold for non-payment of taxes (Transcript of Record, bottom page 11). That is, if the taxes were not paid the lands were advertised and sold at public sale for the taxes and a tax certificate issued to the purchaser at such sale, and if the land was not redeemed within two years from such tax sale by payment of taxes, interest and costs, upon service of notice or advertisement therefor, the holder of tax sale certificate was entitled to receive a tax deed from the county treasurer (Revised Laws of Oklahoma, Sections 7383-7418).

The payment of taxes upon lands exempt therefrom to avoid the consequences of non-payment above mentioned, is a voluntary payment, and not one made under duress, and the tax cannot be recovered back.

*Phillips v. Board of Com'rs Jefferson County*, 5 Kans. 412.

In that case money was paid to the county treasurer to redeem tax sale certificates of land sold for taxes, which were Indian lands, and not liable to assessment and taxation, and at the same time said money was so paid, the owner of the land denied the legality of the tax, on the ground that the lands were not taxable, and paid the money to prevent tax deeds, which were then due, from being made for said lands, and it was held that such payment was voluntary, and could not be recovered back.

It is to be noted that the allegation that at the time said tax was paid, the owner denied the legality of the tax, does not make the payment an involuntary one, as is shown by the last case cited. That case has been cited and followed by the Supreme Court of the United States in the case of *Lamborn v. Board of County Commissioners*, 97 U. S. 181, in which case certain lands had been taxed before a patent had been issued therefor, the Supreme Court of Kansas had held the taxes legal, and the lands were bid in by the county for taxes. The taxes were paid by plaintiff in ignorance of the fact that the lands were not taxable, and afterward the Supreme Court of the United States reversed the Supreme Court of Kansas and held the lands not taxable, and thereafter suit was brought to recover the taxes paid.

It is to be noted that the circumstances in that case are almost identical with those alleged in the petition in the case at bar (Transcript of Record, pages 6, 7, 8, 9

and 10), except that in that case there was not protest made upon payment of taxes, and in this case there had been no tax sale, the allegation as to time of payment showing that same was made before tax became delinquent and penalties accrued under the tax laws of Oklahoma. In both cases the lands were non-taxable, in both cases the state court had held the lands taxable, and in both cases the action was instituted to recover the tax paid, after the United States Supreme Court had reversed the state court, and had held the land non-taxable.

In the opinion by Mr. Justice Bradley it is said with reference as to whether the tax could be recovered back:

"There are only three grounds on which such recovery can be maintained: Fraud, mistake or duress. No fraud is charged."

So in case at bar it is to be noted that petitioner charges no fraud in his petition.

The court next considers the question of mistake.

"Mistake, in order to be a ground of recovery, must be a mistake of fact, and not of law. Such, at least, is the general rule. 3 Pars. Cont. 398; *Hunt v. Rousmaniere*, 1 Pet. 1; *Bilbie v. Lumley*, 2 East. 469 (cited); 2 Smith L. Cas. 398, 6th Ed. 458, notes to *Marriot v. Hampton*. A voluntary payment made with full knowledge of all the facts and circumstances of the case, though made under a mistaken view of the law, cannot be revoked and the money so paid cannot be recovered back (citing cases). \* \* \*

"In the present case, there is no dispute, that all the facts and circumstances of the case, bearing on the question of the validity of the tax, were fully known to the plaintiff. He professedly relied on the law, as declared by the Supreme Court of Kansas, and supposed that the tax was legal and valid."



So in case at bar the Indians, petitioner's assignors, knew the facts as disclosed by his petition; they knew that they were members of the Choctaw and Chickasaw Nations; knew that as members of such nations they had received allotments; knew that such allotments were exempt from taxation as recited in said petition by virtue of act of Congress, approved June 28, 1898, and duly ratified and agreed to by said nations on December 1, 1898, and knew that their allotments were assessed in 1908 (Transcript of Record, page 7); they knew that they had proceeded at once to enjoin said assessment and the collection of said tax by a suit brought in the superior court of Logan county, Oklahoma; they knew that the judgment was adverse to their contention, and knew that they had appealed from its judgment to the Supreme Court of Oklahoma, and that it had affirmed the lower court, and knew that they had appealed to the Supreme Court of the United States (Transcript of Record, 11). And they say, "while said action was pending in said several courts \* \* \* fearing that said contention that said lands were taxable was true, but refusing to believe the same was true, paid the tax \* \* \* (Transcript of Record, page 11). It becomes at once apparent from the foregoing that there was no mistake as to the facts, but that the only mistake was as to the law, and whether under it the land was taxable and that the Indians, fearing the land was taxable under the law, paid the tax, hence the money was voluntarily paid and cannot be recovered back.

Mr. Justice Bradley next proceeds to a consideration of the question of duress in the opinion as follows:

"But it has been questioned whether a sale or threatened sale of land for an illegal tax is within this rule, there being no seizure of the property, and nothing supervening upon the sale except a cloud on the title.

In *Phillips v. Jefferson Co.*, 5 Kans. 412, certain Indian lands, not legally taxable, were, nevertheless, assessed and sold for taxes, and a certificate issued to the purchaser. Phillips having acquired title to the land, paid the amount of said tax, at the same time denying their legality, and saying that he paid the money to prevent tax deeds from issuing on the certificates. The court held that the payment was purely voluntary, and add: 'The money was not paid on compulsion or extorted as a condition. A tax deed had been due for nearly two years. Had the plaintiff desired to litigate the question he could have done so without paying the money; even had a deed been made out on the tax certificate it would have been set aside by appropriate proceedings. There was no legal ground for apprehending any danger on the part of the plaintiff. He could have litigated the case as well before as after payment. Neither his person or property was menaced by legal process. Regarding, then, the payment as purely voluntary, it is as certain as any principal of law can be that it could not be recovered back.'

"It seems to us that this case is precisely parallel with the one before us. We are unable to perceive any distinction between them. And as it is the law of Kansas, which we are called upon to administer, the settled decisions of its Supreme Court, upon the very matter are entitled to the highest respect."

The court in that case, as indicated, regarded the question as to whether the payment was under duress or voluntary, one of general law, and as the case had its origin in Kansas, such question was to be determined by the Kansas decisions. So in case at bar, the question being one of general law, and the case having its origin in Oklahoma, the decisions of Oklahoma are to be considered with equal authority upon the question, in this case, as the Kansas decisions were in that case, and as they follow the Kansas cases, it should be determined that the payment in this case was voluntary. In that

case the court at the end of the opinion made the following conclusion:

"In conclusion, our judgment is, that the questions submitted by the Circuit Court must be answered as follows:

"To the first: That judgment should be rendered for the defendant.

"To the second: That the acquisition of the tax certificates and the subsequent payment of the taxes by the plaintiff were a voluntary payment, in such a sense as to defeat the right to recover in this action.

"To the third: That the statute of Kansas referred to in the opinion, does not, upon the facts found, give the plaintiff the right to recover in respect of the causes of action set out in the opinion."

Which conclusions are equally applicable here, and show that the question is one of general law and that the decisions of Oklahoma thereupon and upon the Oklahoma statute should prevail, with the result found in that case.

And the fact that the Indians who paid the taxes protested at the time of payment could not make the payment, under the conditions recited in the petition, an involuntary one further appears from the case of *Union Pac. R. Co. v. County Commissioners of Dodge County*, 98 U. S. 541, in which case it appears that certain lands in Nebraska had been taxed under the general taxation and revenue laws of that state, which are very similar to those of Oklahoma, which lands were not subject to taxation, as patent had not issued therefor, the company paid the taxes, protesting at the time in writing, and brought suit to recover the taxes back.

In holding that the taxes were voluntarily paid and could not be recovered back, Mr. Justice Waite says in the opinion:

"We had occasion to consider the same general subject at the last term in the case of *Lamborn v. Com'rs.*, \* \* \* which came up on a certificate of division from Kansas. As that was a case from Kansas, we followed the rule adopted by the courts of that state, which is thus stated in *Wabaunsee Co. v. Walker*, 8 Kans. 431:

"Where a party pays an illegal demand with a full knowledge of all the facts which render such demand illegal, without an immediate and urgent necessity therefor, or unless to release his person or property, such payment must be deemed voluntary and cannot be recovered back. And the fact that the party at the time of making the payment files a written protest does not make the payment involuntary.'"

At the close of the opinion it is further stated:

"Under such circumstances, we cannot hold that the payment was compulsory in such a sense as to give a right to the present action. As the answer to this question disposes of the case, it is necessary to consider the other questions certified. \* \* \*"

Therefore, we contend that the determination of this question of general law by the Supreme Court of Oklahoma, namely, voluntary payment, is broad enough to sustain its judgment, and the consideration of any other questions is unnecessary in this case.

In *Chesborough v. United States*, 192 U. S. 253, at 259, it is said:

"The rule is firmly established that taxes voluntarily paid cannot be recovered back, and payments with knowledge and without compulsion are voluntary."

*United States v. New York & Cuba Mail Steamship Company*, 200 U. S. 488.

*United States v. Edmonson*, 181, U. S. 500, to the effect that the payment of an excessive amount for gov-

ernment lands to government officers being voluntary and under mutual mistake of law is not recoverable.

In *Little v. Bowers*, 134 U. S. 547, the court quotes and follows *Wabaunsee County v. Walker*, 8 Kans. 431, deciding the question of general law that the taxes were voluntarily paid and could not be recovered back, and sustained the motion to dismiss the writ of error.

We, therefore, submit that the case being determined upon a question of general law broad enough to sustain the judgment, and such question having been settled by the Supreme Court of Oklahoma in *Louisiana Realty Co. v. City of McAlester*, 25 Okla. 726; *Johnson v. Grady County*, 50 Okla. 188, and in *George R. Broadwell v. Board of Commissioners of Carter Co.*, 175 Pac. 828, its determination that the taxes were voluntarily paid and cannot be recovered back, presents no federal question for review, and the writ should be dismissed.

### POINT III

Even if the Supreme Court of Oklahoma had decided a federal question against the petitioner, C. A. Greenlees, nevertheless the court decided against him also upon independent grounds, not involving any federal question, and broad enough to support the judgment, and for this reason the federal question involved will not be considered by the Supreme Court of the United States.

The first independent ground broad enough to sustain the judgment and not involving any federal question is considered on the first ground to dismiss herein under the first point.

*Farson, Son & Co. v. Bird*, U. S. Sup. Ct. Adv. Op. 1918-1919, page 156.

The second independent ground broad enough to sustain the judgment decided by the state court, and not involving any federal question, is considered in the second ground of the motion to dismiss herein under point two.

And that a decision that a payment of taxes is voluntary and cannot be recovered back is upon independent grounds broad enough to sustain the judgment, and not involving a federal question, we cite:

*Garr, Scott & Co. v. Shannon*, 223 U. S. 468, where in the opinion by Mr. Justice Lamar, it is said:

"It further held that even if there had been merit in plaintiff's contention, it was not entitled to recover the tax for 1905 and 1906, because they had been voluntarily paid.

"If the record offers a basis for sustaining the last proposition, this court cannot consider whether the act violates the 14th Amendment or the Commerce and Contract clause of the Constitution. For, as repeatedly ruled, where a state court has decided against the plaintiff in error on a matter of general law broad enough to sustain the judgment, this court will not consider the federal question, even though they may have been actually decided and determined adversely to his contention. *Hale v. Akers*, 132 U. S. 554, 564. The principle has been enforced in cases where the ruling of the state court was based on the application of the doctrine of res judicata, laches, and other similar in kind to that involving the effect of a voluntary payment. *Northern P. R. Co. v. Ellis*, 144 U. S. 458; *Hale v. Lewis*, 181 U. S. 473; *Moran v. Horsky*, 178 U. S. 205; *Pierce v. Somerset*, 171 U. S. 648; *Rector v. Ashley*, 6 Wall. 142."

We also cite in support of the third ground for dismissal:

*Petrie et al. v. Nampa & Meridian Irr. Dis.*, 39 Sup. Ct. Reporter, 25, where in the opinion by Mr. Justice Clarke it is said:

"But the second ground of the motion to dismiss is valid, viz., that, even if it be conceded that the Supreme Court decided a federal question against the plaintiff in error, nevertheless the court decided against them also upon an independent ground, not involving any federal question and broad enough to support the judgment, and for this reason the federal question involved will not be considered on a writ of error, under a series of decisions of this court extending at least from *Klinger v. State of Missouri*, 13 Wall. 257, 263, to *Enterprise Irrigation District et al. v. Farmers' Mutual Canal Co.*, 243 U. S. 157, 164."

Wherefore, in view of all the foregoing, the respondent herein respectfully submits that the writ should be dismissed, and prays that it be so ordered.

Respectfully submitted,

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WARD ET AL. v. BOARD OF COUNTY COMMISSIONERS OF LOVE COUNTY, OKLAHOMA.

CERTIORARI TO THE SUPREME COURT OF THE STATE OF OKLAHOMA.

No. 224. Submitted March 11, 1920.—Decided April 25, 1920.

The jurisdiction of this court to review a judgment of a state court the effect of which is to deny a federal right, cannot be avoided by placing such judgment on non-federal grounds which are plainly untenable. P. 22.

Certain allotments belonging to Indians in Oklahoma, which by federal right were exempt from taxation, were assessed by county officials, while suits, of which they had full knowledge and in one of which they were defendants, were being litigated in behalf of all such allottees, to maintain the exemption (*Choate v. Trapp*, 224 U.



S. 665); and, in response to demands, accompanied by threats of advertisement and sale which were carried out in other cases, the allottees paid the taxes to avoid such sales and the imposition of heavy penalties, but did so under protest denying the validity of the taxation. *Held*: (1) That the payments were clearly made under compulsion, and that no statutory authority was necessary to enable or require the county to refund the money (p. 23). (2) The fact that part of the money, after collection, was paid over by the county to the State and other municipalities, and the absence of a state statute making the county liable for taxes so paid, did not alter the county's obligation to restore the full sums to the allottees. P. 24.

The application of the state statute of limitations, not having been discussed by the state court, is not dealt with here or affected by the decision. P. 25.

68 Oklahoma, —, reversed.

THE case is stated in the opinion.

*Mr. J. E. Bennett* and *Mr. Geo. P. Glaze* for petitioners.  
*Estelle Balfour Bennett* was on the brief.

*Mr. T. B. Wilkins*, *Mr. Russell Brown*, *Mr. Geo. B. Rittenhouse*, *Mr. P. T. McVay*, *Mr. Clinton A. Galbraith* and *Mr. George Trice* for respondent.

MR. JUSTICE VAN DEVANTER delivered the opinion of the court.

This is a proceeding by and on behalf of Coleman J. Ward and sixty-six other Indians to recover moneys alleged to have been coercively collected from them by Love County, Oklahoma, as taxes on their allotments, which under the laws and Constitution of the United States were nontaxable. The county commissioners disallowed the claim and the claimants appealed to the district court of the county. There the claimants' petition was challenged by a demurrer, which was overruled,

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and the county elected not to plead further. A judgment for the claimants followed, and this was reversed by the Supreme Court. 68 Oklahoma, —. The case is here on writ of certiorari.

The claimants, who were members of the Choctaw tribe and wards of the United States, received their allotments out of the tribal domain under a congressional enactment of 1898, which subjected the right of alienation to certain restrictions and provided that "the lands allotted shall be nontaxable while the title remains in the original allottee, but not to exceed twenty-one years from date of patent." C. 517, 30 Stat. 507. In the Act of 1906, enabling Oklahoma to become a State, Congress made it plain that no impairment of the rights of property pertaining to the Indians was intended, c. 3335, § 1, 34 Stat. 267; and the State included in its constitution a provision exempting from taxation "such property as may be exempt by reason of treaty stipulations, existing between the Indians and the United States government, or by Federal laws, during the force and effect of such treaties or Federal laws." Art. 10, § 6. Afterwards Congress, by an act of 1908, removed the restrictions on alienation as to certain classes of allottees, including the present claimants, and declared that all land from which the restrictions were removed "shall be subject to taxation . . . as though it were the property of other persons than allottees." C. 199, §§ 1, 4, 35 Stat. 312.

Following the last enactment the officers of Love and other counties began to tax the allotted lands from which restrictions on alienation were removed, and this met with pronounced opposition on the part of the Indian allottees, who insisted, as they had been advised, that the tax exemption was a vested property right which could not be abrogated or destroyed consistently with the Constitution of the United States. Suits were begun in the state courts to maintain the exemption and enjoin the

threatened taxation, one of the suits being prosecuted by some 8,000 allottees against the officers of Love and other counties. The suits were resisted, and the state courts, being of opinion that the exemption had been repealed by Congress, sustained the power to tax. *English v. Richardson*, 28 Oklahoma, 408; *Gleason v. Wood*, *ibid.* 502; *Choate v. Trapp*, *ibid.* 517. The cases were then brought here, and this court held that the exemption was a vested property right which Congress could not repeal consistently with the Fifth Amendment, that it was binding on the taxing authorities in Oklahoma, and that the state courts had erred in refusing to enjoin them from taxing the lands. *Choate v. Trapp*, 224 U. S. 665; *Gleason v. Wood*, *ibid.* 679; *English v. Richardson*, *ibid.* 680.

While those suits were pending the officers of Love County, with full knowledge of the suits and being defendants in one, proceeded with the taxation of the allotments, demanded of these claimants that the taxes on their lands be paid to the county, threatened to advertise and sell the lands unless the taxes were paid, did advertise and sell other lands similarly situated, and caused these claimants to believe that their lands would be sold if the taxes were not paid. So, to prevent such a sale and to avoid the imposition of a penalty of eighteen per cent., for which the local statute provided, these claimants paid the taxes. They protested and objected at the time that the taxes were invalid, and the county officers knew that all the allottees were pressing the objection in the pending suits.

As a conclusion from these facts the claimants asserted that the taxes were collected by Love County by coercive means, that their collection was in violation of a right arising out of a law of Congress and protected by the Constitution of the United States, and that the county was accordingly bound to repay the moneys thus collected. The total amount claimed is \$7,823.35, aside from interest.

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Such, in substance, was the case presented by the petition, which also described each tract that was taxed, named the allottee from whom the taxes were collected and stated the amount and date of each payment.

In reversing the judgment which the district court had given for the claimants the Supreme Court held, first, that the taxes were not collected by coercive means, but were paid voluntarily, and could not be recovered back as there was no statutory authority therefor; and, secondly, that there was no statute making the county liable for taxes collected and then paid over to the State and municipal bodies other than the county,—which it was assumed was true of a portion of these taxes,—and that the petition did not show how much of the taxes was retained by the county, or how much paid over to the State and other municipal bodies, and therefore it could not be the basis of any judgment against the county.

The county challenges our jurisdiction by a motion to dismiss the writ of certiorari and by way of supporting the motion insists that the Supreme Court put its judgment entirely on independent non-federal grounds which were broad enough to sustain the judgment.

As these claimants had not disposed of their allotments and twenty-one years had not elapsed since the date of the patents, it is certain that the lands were nontaxable. This was settled in *Choate v. Trapp*, *supra*, and the other cases decided with it; and it also was settled in those cases that the exemption was a vested property right arising out of a law of Congress and protected by the Constitution of the United States. This being so, the State and all its agencies and political subdivisions were bound to give effect to the exemption. It operated as a direct restraint on Love County, no matter what was said in local statutes. The county did not respect it, but, on the contrary, assessed the lands allotted to these claimants, placed them on the county tax roll, and there charged them with taxes like

other property. If a portion of the taxes was to go to the State and other municipal bodies after collection,—which we assume was the case,—it still was the county that charged the taxes *against these lands* and proceeded to collect them. Payment of all the taxes was demanded by the county, and all were paid to it in the circumstances already narrated.

We accept so much of the Supreme Court's decision as held that, if the payment was voluntary, the moneys could not be recovered back in the absence of a permissive statute, and that there was no such statute. But we are unable to accept its decision in other respects.

The right to the exemption was a federal right, and was specially set up and claimed as such in the petition. Whether the right was denied, or not given due recognition, by the Supreme Court is a question as to which the claimants were entitled to invoke our judgment, and this they have done in the appropriate way. It therefore is within our province to inquire not only whether the right was denied in express terms, but also whether it was denied in substance and effect, as by putting forward non-federal grounds of decision that were without any fair or substantial support. *Union Pacific R. R. Co. v. Public Service Commission*, 248 U. S. 67; *Leathe v. Thomas*, 207 U. S. 93, 99; *Vandalia R. R. Co. v. South Bend*, *ibid.* 359, 367; *Gaar, Scott & Co. v. Shannon*, 223 U. S. 468; *Creswill v. Knights of Pythias*, 225 U. S. 246, 261; *Enterprise Irrigation District v. Farmers Mutual Canal Co.*, 243 U. S. 157, 164. And see *Jefferson Branch Bank v. Skelly*, 1 Black, 436, 443; *Huntington v. Attrill*, 146 U. S. 657, 683-684; *Boyd v. Thayer*, 143 U. S. 135, 180; *Carter v. Texas*, 177 U. S. 442, 447. Of course, if non-federal grounds, plainly untenable, may be thus put forward successfully, our power to review easily may be avoided. *Terre Haute & Indianapolis R. R. Co. v. Indiana*, 194 U. S. 579, 589. With this qualification, it is true that a judgment of a state court, which is put on

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independent non-federal grounds broad enough to sustain it, cannot be reviewed by us. But the qualification is a material one and cannot be disregarded without neglecting or renouncing a jurisdiction conferred by law and designed to protect and maintain the supremacy of the Constitution and the laws made in pursuance thereof.

The facts set forth in the petition, all of which were admitted by the demurrer whereon the county elected to stand, make it plain, as we think, that the finding or decision that the taxes were paid voluntarily was without any fair or substantial support. The claimants were Indians just emerging from a state of dependency and wardship. Through the pending suits and otherwise they were objecting and protesting that the taxation of their lands was forbidden by a law of Congress. But, notwithstanding this, the county demanded that the taxes be paid, and by threatening to sell the lands of these claimants and actually selling other lands similarly situated made it appear to the claimants that they must choose between paying the taxes and losing their lands. To prevent a sale and to avoid the imposition of a penalty of eighteen per cent. they yielded to the county's demand and paid the taxes, protesting and objecting at the time that the same were illegal. The moneys thus collected were obtained by coercive means—by compulsion. The county and its officers reasonably could not have regarded it otherwise; much less the Indian claimants. *Atchison, Topeka & Santa Fe Ry. Co. v. O'Connor*, 223 U. S. 280; *Gaar, Scott & Co. v. Shannon*, *supra*, p. 471; *Union Pacific R. R. Co. v. Public Service Commission*, *supra*; *Swift Co. v. United States*, 111 U. S. 22, 29; *Robertson v. Frank Brothers Co.*, 132 U. S. 17, 23; *Oceanic Steam Navigation Co. v. Stranahan*, 214 U. S. 320, 329. The county places some reliance on *Lamborn v. County Commissioners*, 97 U. S. 181, and *Railroad Co. v. Commissioners*, 98 U. S. 541; but those cases are quite distinguishable in their facts and some of the

general observations therein to which the county invites attention must be taken as modified by the later cases just cited.

As the payment was not voluntary, but made under compulsion, no statutory authority was essential to enable or require the county to refund the money. It is a well settled rule that "money got through imposition" may be recovered back; and, as this court has said on several occasions, "the obligation to do justice rests upon all persons, natural and artificial, and if a county obtains the money or property of others without authority, the law, independent of any statute, will compel restitution or compensation." *Marsh v. Fulton County*, 10 Wall. 676, 684; *City of Louisiana v. Wood*, 102 U. S. 294, 298-299; *Chapman v. County of Douglas*, 107 U. S. 348, 355. To say that the county could collect these unlawful taxes by coercive means and not incur any obligation to pay them back is nothing short of saying that it could take or appropriate the property of these Indian allottees arbitrarily and without due process of law. Of course this would be in contravention of the Fourteenth Amendment, which binds the county as an agency of the State.

If it be true, as the Supreme Court assumed, that a portion of the taxes was paid over, after collection, to the State and other municipal bodies, we regard it as certain that this did not alter the county's liability to the claimants. The county had no right to collect the money, and it took the same with notice that the rights of all who were to share in the taxes were disputed by these claimants and were being contested in the pending suits. In these circumstances it could not lessen its liability by paying over a portion of the money to others whose rights it knew were disputed and were no better than its own. *Atchison, Topeka & Santa Fe Ry. Co. v. O'Connor*, *supra*, p. 287. In legal contemplation it received the money for the use and benefit of the claimants and should respond to them accordingly.

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The county calls attention to the fact that in the demurrer to the petition the statute of limitation (probably meaning § 1570, Rev. Laws 1910), was relied on. This point was not discussed by the Supreme Court and we are not concerned with it beyond observing that when the case is remanded it will be open to that court to deal with the point as to the whole claim or any item in it as any valid local law in force when the claim was filed may require.

*Motion to dismiss denied.*

*Judgment reversed.*

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BROADWELL v. BOARD OF COUNTY COMMISSIONERS.